



STAFF REPORT

Conditional Use Permit Application Review for Big Pine Solar Sussex County, Virginia

Report Date: September 30, 2024

**Planning Commission/Board of Supervisors Joint Hearing Meeting Date: October 24,
2024**

APPLICATION SUMMARY

Project:	Big Pine Solar, 150 MW
Affected Acreage:	Total Project Area: 2,187 acres Development/Disturbance Project Area: 1,050 acres Area Under Panel: 598 acres
Location:	The Project is situated northwest of the intersection of Route 625 (Newville Road) and Route 626 (Neblett Mill Road).
Parcel Record Numbers:	6 parcels: 14-A-2, 25-A-3, 25-A-4, 25-A-6, 39-A-31, 39-A-32
Proposal:	Conditional Use Permit for Utility-Scale Solar Facility
Application Submitted:	July 3, 2024 Revised October 11, 2024
Applicant:	RWE Clean Energy, LLC
Representative:	Kerrine Bryan RWE Clean Energy, LLC Kerrine.bryan@rwe.com 872-335-6176
Owners:	Belvedere Timber LLC, Story Diane T & Chandler S Dennis, John Hancock Life Insurance Company

PROPOSED DEVELOPMENT

The Applicant is seeking a Conditional Use Permit (CUP) to construct a 150 megawatt (alternating current) photovoltaic solar energy generation facility. The project is located on 6 parcels, or portions thereof, totaling 2,187 acres, while the fenced area of development/disturbance totals approximately 1,050 acres.

The project infrastructure will consist of approximately 311,640 solar photovoltaic modules (PV panels) mounted on steel racking structures, inverters, a transformer, and control cabinet, switch gear, meter, interconnection, and security fencing. PV panels will be approximately 27% of the total project area.

The Big Pine Solar project is located in Sussex County, Virginia, bisected by Route 625 (Newville Road), north of the intersection of Route 625 and Route 626 (Neblett Mill Road).



The project will be screened from view at ground level at all locations where the project can be seen by the public and adjacent landowners. A 150-foot buffer of existing vegetation will be maintained around the exterior of the Project's fencing. There are several locations where a berm will be built, and screening trees will be planted. Screening will be no less than 50 feet wide. The trees planted as part of this screening will be no less than five (5) to six (6) feet tall at planting and be in at least three staggered rows, no more than fifteen (15) feet apart.

Construction is anticipated to commence in Q2 2026 with the Project being energized and commercial operation being achieved by Q2 2027. The Application's Traffic & Route Evaluation Study indicates haul routes for construction traffic; the proposed haul routes indicate traffic from US Route 460, travelling to Route 602/Cabin Point Road, traffic would then access the site from Route 625/Newville Road or Route 602/Cabin Point Road and private roads therefrom.

The Project includes several wildlife corridors throughout. Fencing will not be placed across the wildlife corridors so that they can readily be used by wildlife. The site contains several wetlands. Where electric collection lines cross wetlands they will either span the wetland overhead or be directionally bored under the wetland. These electric collection lines are necessary to connect the solar panels in various parts of the Project.

EXISTING CONDITIONS AND ZONING

The Project land totals 2,187 acres and is entirely zoned A-1, General Agricultural. The Applicant has indicated that the development/disturbance area of the project to be 1,050 acres. There are areas of steep slopes (8% or greater) within the Project site.

The County's Comprehensive Plan identifies the Project to be located within the Waverly Small Area Plan (SAP) area. The current and future designated use for this area is Agricultural/Forested/Open Space.

ADJACENT AND SURROUNDING USES

The project area abuts 12 parcels that are zoned A-1, including residences, agricultural and forestry uses. The area surrounding the Project includes mostly forests and farmland with some low-density single family residential dwellings. All adjacent properties are zoned A-1, General Agriculture. The project is also adjacent to and/or in close proximity to Sussex I and II Correctional Facility, Atlantic Waste Management landfill, Waverly Solar, and the proposed Cabin Point Solar project which has been abandoned. The project is located west of the Town of Waverly with project parcels and active developed areas located over 3 miles from the Town's boundaries.

ENVIRONMENTAL AND NATURAL RESOURCES

The Applicant contacted State agencies for a review of potential natural resources in and around the project area. This review encompasses various categories, including:

- National and state forests
- National and state parks
- Wildlife management areas



- Conservation easements
- Recreational areas
- Cultural and historic resources

The Applicant conducted a limited environmental review of resources that may be present within a three-mile radius of the project location. According to the Applicant, no federal, state, or local lands intersect with the Big Pine Solar project; however, according to the Applicant, four managed lands are situated within three miles of the site. These include:

- **Virginia Outdoors Foundation Conservation Easement:** Adjacent to the southernmost portion of the site.
- **Virginia Department of Forestry Conservation Easement:** Located at the northwestern corner of the site.
- **Historic Virginia Land Conservancy Conservation Easement:** Situated 0.6 miles west of the site.
- **Cherry Orchard Bog State Natural Area Preserve:** Managed by the Virginia Department of Conservation and Recreation, located 2.1 miles west of the site.

The presence of wetlands and streams on the site has been acknowledged. Key points include:

- If impacts to jurisdictional wetlands and streams are unavoidable, the project will obtain necessary permits from USACE and VDEQ.
- Wetlands and streams serve as natural wildlife corridors and will remain generally unaffected by the project, facilitating wildlife movement.
- The Virginia Department of Wildlife Resources (VDWR) advises that maintaining interior passages through solar projects can mitigate potential wildlife impacts, which this project will adhere to.

The Applicant conducted review of threatened and endangered (T&E) species, utilizing the VDWR Wildlife Environmental Review Mapping System (WERMS), the Virginia Department of Conservation and Recreation (VDCR) Predicted Suitable Habitat Model, and VCU's Coastal Zone Management Program. Findings indicate:

- Potential T&E species in proximity to the project include:
 - **Rafinesque's Eastern Big-eared Bat** (*Corynorhinus rafinesquii macrotis*), State Endangered
 - **Red-cockaded Woodpecker** (*Picoides borealis*), Federal and State Endangered
 - **Loggerhead Shrike** (*Lanius ludovicianus*), State Threatened
 - **Bachman's Sparrow** (*Peucaea aestivalis*), State Threatened
 - **Roanoke Logperch** (*Percina rex*), Federal and State Endangered
 - **Blackbanded Sunfish** (*Enneacanthus chaetodon*), State Endangered
 - **Dwarf Wedgemussel** (*Alasmidonta heterodon*), Federal State Endangered
 - **Atlantic Pigtoe** (*Fusconaia masoni*), Federal State Threatened
 - **Yellow Lance** (*Elliptio lanceolate*), Federal State Threatened
- The state threatened loggerhead shrike has been observed within three miles of the site, leading to potential tree and shrub clearing restrictions from April 1 to July 31.
- According to the VDCR's model, Bachman's sparrow, Rafinesque's eastern big-eared bat, and red-cockaded woodpecker are potential residents of the site, although not



- previously observed nearby.
- Cabin Branch, Joseph Swamp, Dobie Swamp, and an unnamed tributaries of Joseph Swamp, which run through the western part of the site, are classified as threatened or endangered waters where several T&E species have been documented. Coordination with agencies will occur to ensure the protection of T&E species during the permitting process.
 - The project intersects two Natural Heritage sites that are known Ecological Cores of High Importance:
 - **Neblitts Millpond – Joseph Swamp – Dobie Swamp Stream Conservation Site:** Located in the western portion of the site, this area has a biodiversity ranking of B3, indicating it is a high-priority stream conservation site supporting significant aquatic natural resources.
 - **Joseph Swamp Conservation Site:** Situated at the northwestern corner of the site, also ranked B3, this site provides essential habitat and buffers for natural heritage resources.

CULTURAL AND HISTORIC RESOURCES

The project is not expected to impact cultural and historical resources, as extensive surveys will be conducted and submitted to the Virginia Department of Historic Resources (VDHR). Preliminary analysis indicated eight architectural sites and nine archaeological resources within a half-mile buffer of the site, but many have been evaluated as not eligible for historic registers. Two archaeological resources that may be eligible are located outside the project boundary. Field studies to further evaluate resources will occur in Spring/Summer 2024, with Applicant collaborating with VDHR to address any adverse impacts identified.

ZONING ORDINANCE

The Application was reviewed to determine completeness and compliance with respect to the County's Zoning Ordinance, specifically to the requirements contained in Article VII, Solar and Battery Facilities. A memorandum from the Berkley Group, dated August 9, 2024, indicated that the Application as proposed and revised was both complete and compliant with respect to applicable submittal requirements of the Zoning Ordinance.

COMPREHENSIVE PLAN

The County's 2004-2005 Comprehensive Plan serves as a policy document to inform planning and land use decision making. The Comprehensive Plan is not a regulatory document but should be used when applicable to evaluate projects and applications. As part of the Comprehensive Plan, most recently the County adopted Small Areas Plans as an addendum to the Plan. The Project is located in the Waverly Planning Area.

The future vision for the Waverly Planning Area is as follows:

The area features farms, forests, and open spaces, including critical flood zones and riparian areas that require protection. The U.S. 460 corridor is identified as a prime location for industrial and commercial development due to its large undeveloped tracts and accessibility to



rail and highways. Recommendations include expanding industrial and commercial activities along U.S. 460 and promoting residential growth near Waverly, while also ensuring the profitability of agriculture and forestry and preserving the region's unique natural features. Future development, whether for conservation or large-scale purposes, must align with the area's existing natural and built characteristics.

- **Environmental Areas:** Sensitive environmental areas, such as rivers, streams, flood zones, wetlands, and riparian zones, are crucial for the long-term health of the Waverly Planning Area, particularly along the northeast border formed by the Blackwater River. Future development must carefully consider the protection of these resources to ensure sustainability for both the land and its residents. Environmental conservation principles will be integrated into all land use categories, emphasizing the need for responsible planning that minimizes adverse impacts on these critical ecological features.
- **Agricultural/Forested/Open Space:** Maintaining the rural character of the Waverly Planning Area is essential, especially outside the U.S. 460 corridor, where large tracts of agricultural, forest, and open lands will continue to dominate. The land use classification in these areas aims to support existing farming operations and protect productive agricultural lands from encroachment by industrial or commercial development. Strategies to encourage agritourism, on-site sales, and events are vital for ensuring the profitability of local farming and forestry while enhancing the area's appeal to visitors.
- **Industrial:** The Planning Area has identified specific zones for future industrial development, particularly along U.S. 460 and near Cabin Point Road, which already host existing industrial facilities. Certified sites, such as the Sussex Mega site (752 acres with rail access) and the Route 602 Industrial Park (134 acres), are designated for industrial growth due to their accessibility to major transportation routes. An aggressive marketing strategy will target diverse businesses, enhancing site readiness through improved infrastructure to attract investment and ensure compatibility with the rural character of Sussex County.
- **Commercial:** Commercial development in the Town of Waverly and the broader Planning Area has been limited, highlighted by the recent loss of the local grocery store. Future commercial growth should be concentrated along the U.S. 460 corridor and in downtown Waverly, where there is potential for revitalization. New commercial investments must align with existing infrastructure to maintain service levels and complement the surrounding environment. As the town redevelops, commercial activities should conform to a town-like scale and design, enhancing the community's character while providing necessary services.
- **Residential:** The Town of Waverly serves as the traditional center for residential land use in the Planning Area, with recent growth observed along Cabin Point Road. New residential developments should ideally occur in compact clusters near the Town, with good access to public utilities and transportation. Careful planning is needed to avoid residential growth near existing or planned industrial sites, preserving agricultural areas in the process. Promoting diverse housing types, including single-family homes, townhomes, and apartments, is essential to meet various market demands, while modernizing aging housing structures enhances community living conditions.
- **Public Use:** Public facilities play a critical role in the Waverly Planning Area, with state-owned correctional facilities providing significant employment but not



contributing tax revenue to local needs. As the population and employment levels rise, it is important for Sussex County to prioritize the expansion of tax-paying businesses over the growth of the state prison system. Opportunities to enhance public services, including parks, libraries, and recreational options, will improve residents' overall quality of life and support the growing community's needs.

- ***Town of Waverly:** While Waverly operates its own land use planning and regulatory programs, its vitality is crucial for the County's overall health. Sussex County should support new commercial developments along U.S. 460 and within the downtown area, emphasizing the reuse of existing vacant structures. Any new construction should respect the scale and character of surrounding areas. Efforts to beautify the town, such as improved signage and landscaping, can attract visitors from U.S. 460, leveraging the significant daily traffic to bolster the local economy and enhance community appeal.*

The Waverly Small Area Plan designates the Future Land Use of the majority of the area under the application as Agricultural, with a few portions as Residential.

Additionally, the Comprehensive Plan was amended on February 17, 2022 to amend policies for solar and battery storage facilities; the current policy is as follows:

23. Utility-Scale Solar Facilities

As used in this Comprehensive Plan, a utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt alternating current (1 MWAC). Sussex's abundant agricultural and forest land combined with its electrical infrastructure and transportation system appear to be attractive to the solar industry. These facilities are an industrial scale land use that occupy significant acreage. Many utility-scale solar facilities are located on agricultural or forested land that may have had other future land use potential or land use designations.

The County will consider utility-scale solar facilities as a primary use in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills. The following site features should be addressed to mitigate the potential negative impacts of utility-scale solar facilities on County land use patterns as part of the evaluation of a Conditional Use Permit (CUP) application:

- *the total size shall be 100 acres or more but less than 5,000 contiguous acres;*
- *large contiguous projects are preferred over small decentralized or large discontinuous projects to prevent land fragmentation;*
- *laid out appropriately on the project parcels;*
- *laid out with no more than 65% equipment and building coverage;*
- *located outside planning areas or community hubs;*
- *located outside forested areas to preserve forest resources;*
- *located outside prime agricultural land;*



- *further than three (3) miles from any village or town boundary;*
- *further than two (2) miles from other existing or permitted solar facilities; and*
- *located to minimize negative impacts in proximity to residences; historic, cultural, recreational, or environmentally-sensitive areas; and scenic viewsheds.*
- *located less than or equal to one (1) mile from a transmission line.*

Battery energy storage facilities are also an industrial land use but require more safety requirements than solar facilities. The County will consider battery facilities as:

- *an accessory use to utility-scale solar facilities, other energy generation facilities, or substations; or*
- *a primary use on a parcel contiguous to utility-scale solar facilities, other energy generation facilities, and substations.*

STAFF REVIEW AND COMMENTS

The subject Application is seeking a Conditional Use Permit for a utility-scale solar facility. For solar projects, the planning commission is not required to make a finding that the project is in substantial accord with the comprehensive plan. Instead, pursuant to 15.2-2316.9, a siting agreement, if approved by the Board of Supervisors, fulfills the requirement for a 2232 review. The Applicant has initiated the negotiation of a siting agreement pursuant to Va. Code Section 15.2-2316.6 et seq., for separate consideration by the Board of Supervisors.

Further, per Sections 34-913/Sec. 16-409 and 34-914/16-410 of the Zoning Ordinance, conditions may be imposed on Conditional Use Permits for utility-scale solar and battery energy storage facilities that include, but are not limited to, the following:

- A solar facility shall be constructed, maintained, and operated in substantial compliance with:
 - The development standards under this article.
 - The approved concept plan.
 - Any other conditions imposed pursuant to a conditional use permit.
- The board of supervisors may, in its sole discretion, by conditional use permit, waive or modify requirements set out in this article for solar or battery storage facilities, based on unique site conditions, if it finds that such waiver or modification promotes good land use planning and is compatible with surrounding land uses, and as long as the project still otherwise complies with applicable state law and local ordinances.
- Dedication of real property of substantial value; or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.



- Other reasonable conditions as permitted by state law and as otherwise provided for in this Article.

Staff has reviewed the proposed project considering the relevant sections of the County's Zoning Ordinance as well as the Comprehensive Plan and offers the following for consideration by the Planning Commission and Board of Supervisors.

Comprehensive Plan

Based upon policies pertaining to the Waverly Planning Area as part of the Waverly Small Area Plan, and future land use designations, consideration should be given to whether the proposed Project:

- Carefully considers the protection of environmental resources to ensure sustainability for both the land and its residents; integrated environmental conservation principles into the Project design, serving to minimize adverse impacts on these critical ecological features; and
- Maintains the rural character of the Waverly Planning Area, supports existing farming operations, and protects productive agricultural lands from encroachment by industrial or commercial development.

With regard to the overarching County-wide policies for utility-scale solar and battery energy storage facilities, the Planning Commission and Board of Supervisors should consider the following:

1. *The County will consider utility-scale solar facilities as a primary use in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills.*

The Project parcels are zoned A-1; however, no parcels are considered to be brownfields nor County-owned capped landfills.

2. *The following site features have been reviewed and should be mitigated for potential negative impacts of utility-scale solar facilities on County land use patterns:*

- *the total size shall be 100 acres or more but less than 5,000 contiguous acres;*

The Project is greater than 100 acres. In total, the Project has an area of 2,187 acres which is inclusive of the active development area totaling approximately 1,050 acres.

- *large contiguous projects are preferred over small decentralized or large discontinuous projects to prevent land fragmentation;*

The Project is determined to constitute a large contiguous project and does not constitute a small, decentralized project.

- *laid out appropriately on the project parcels;*



Generally, as proposed and laid out, staff is of the opinion that the Project is appropriately laid out based upon the proposed 150' perimeter buffer/setback.

- *laid out with no more than 65% equipment and building coverage;*

Based upon the proposed 2,187-acre project area and panel coverage of 598 acres, the proposed coverage is approximately 27%.

- *located outside planning areas or community hubs;*

The Project parcels and active developed area are located more than 3 miles from the Town of Waverly.

- *located outside forested areas to preserve forest resources;*

Based on information provided by the Applicant, the development area consists willing landowners of Emergent Forests, Forests, Open Water, and Scrub or shrubbed areas.

- *located outside prime agricultural land;*

According to the Application materials, of the development area, approximately 40 acres consists of lands with active agriculture production being offered by willing landowners to be removed from production.

- *further than three (3) miles from any village or town boundary;*

The Project parcels and active developed area are located more than 3 miles from the Town of Waverly.

- *further than two (2) miles from other existing or permitted solar facilities;*

Project parcels and active developed area are located more than 2 miles from the Waverly Solar project. The Cabin Point Solar project was formerly located in the area of the Project, however, the permit for the Cabin Point Solar project has expired and it is no longer relevant to this policy.

- *located to minimize negative impacts in proximity to residences; historic, cultural, recreational, or environmentally-sensitive areas; and scenic viewsheds.*

The project's proposed 150' perimeter buffer/setback, as well as 300' setback from residences, work to ensure consistency with this criteria. As noted, the Applicant has proposed wetland buffers and setbacks of varying widths, but no less than 50'. To ensure the protection of wetland resources, Staff is additionally recommending that there be a setback of 200' from wetlands and streams.

- *located less than or equal to one (1) mile from a transmission line.*



The Project is located within 1 mile of a transmission line, being bisected by an existing 500kV transmission line.

Zoning Ordinance

The purpose of the County’s Zoning Ordinance is to generally promote the health, safety, or general welfare of the public and of further accomplishing the objectives of the Code of Virginia, § 15.2-2200, and to further the 11 specific purposes as referenced in the Zoning Ordinance, as follows:

- *To reduce or prevent congestion in the public streets;*

Access to the site will be provided via three (3) entrances – one with access (1) from Route 602 and two (2) with access from Route 625.

- *To facilitate the creation of a convenient, attractive and harmonious community;*

As noted, the project proposes buffers and setbacks that should ensure consistency with this purpose.

- *To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;*

As noted, given the number of access points and the conditions of roadways accessing areas of the project, conditions would be warranted to ensure appropriate construction traffic mitigation and the safety of the general public.

- *To protect against destruction of or encroachment upon historic areas;*

The project does abut identified historic resources within a 3-mile area; however, staff is of the opinion that there are no known project activities that would destroy or encroach upon historic resources.

- *To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other danger;*

As noted, given the number of access points and the conditions of roadways accessing areas of the project, conditions would be warranted to ensure appropriate construction traffic mitigation and the safety of the general public.

- *To encourage economic development activities that provide desirable employment and enlarge the tax base;*



The project will undoubtedly enlarge the tax base, however, in and of itself it will not likely encourage long-term economic development activity that provides for long-term employment opportunities. The development of utility-scale solar facilities may result in short-term construction employment opportunities and may result in increased economic activity during the period of construction.

- *To provide for the preservation of agricultural and forest lands and other lands of significance for the protection of the natural environment;*

Based upon information provided by the Applicant, the development area consists of Emergent Forests, Forests, Open Water, and Scrub or shrubbed areas. According to the Application materials, of the development area, approximately 40 acres or 2.4% consists of active agriculture production. The amount of prime farmland that is currently being used for agriculture that is impacted by the Project (within the fence) is .88% (40 acres) of the total Project area.

As noted, with respect to impacts to wetland resources, in addition to the 50' buffer proposed by the Applicant, Staff is recommending a condition requiring a 200' setback from wetlands and streams for all installed equipment.

Additional Comments

Given the size and location of the project, existing County staffing resources may be strained or insufficient to appropriately manage and monitor the project during development and operation. Should the Project be approved, a condition addressing the need for third-party inspections is recommended by Staff to mitigate this impact.

STRENGTHS	WEAKNESSES
1. Large, contiguous Project.	1. The project is located within a DCR designated conservation site of high significance.
2. Will provide another source of energy to the transmission grid.	2. Significant amount of highly important wetlands throughout the project area.
3. No direct impact to any known cultural and/or historical resources.	3. Potential threatened and endangered species located in proximity to this proposal.
4. Located greater than 3 miles from the Town of Waverly	4. Neblitts Mill Run, Cabin Branch, Joseph Swamp, and Dobie Swamp, which run through the western part of the site, are classified as threatened or endangered waters where several T&E species have been documented.
5. Located more than 2 miles from the Waverly Solar facility	
6. The project serves to expand the base of tax-paying businesses in this area as opposed to the correctional facility and the service authority.	



STAFF RECOMMENDATION

Based upon a review of the Application and the Staff comments provided herein, Staff recommends approval of the requested Conditional Use Permit with conditions. Generally, Staff is of the opinion that the Project is consistent with the policies of the Comprehensive Plan and the purposes of the Zoning Ordinance with the imposition of reasonable conditions to mitigate any anticipated negative impacts.

Attachments:

- A. Staff Proposed Conditions dated October 17, 2024
- B. Big Pine Solar Completeness and Compliance Review – Berkley Group dated August 9, 2024
- C. Agency Comments
- D. Revised CUP Application
- E. Public Comments received to date

RWE Clean Energy, LLC, (the “Applicant”) has applied (the “Application”) to the Sussex County Board of Supervisors (the “County”) for a Conditional Use Permit (the “CUP”) to construct a Utility Scale Solar Facility (the “Solar Facility”) and associated overhead and underground lines (collectively the “Project”) as defined by Article 1, Section 34-1 of the Sussex County Zoning Ordinance (the “Ordinance”) and permitted by Chapter 34, Section 34-907 of the Ordinance. The following conditions, which upon approval of the CUP, shall be in full force and effect. As used in these conditions, the term “Applicant” shall include the terms “Applicant, Owner, Developer, or Operator,” and the successors and assigns thereof. The term “Zoning Administrator” shall include the designee of the Zoning Administrator. The terms “Project” and “Solar Facility” shall include the facility in its entirety.

The proposed CUP conditions (the “Conditions”) are consistent with the Ordinance which shall apply to the Project. In the event of any conflict between the Ordinance and Conditions, the Conditions shall control. All terms and phrases used and not otherwise defined herein shall have the meanings ascribed to them in the Ordinance. The CUP, including any approved plans and CUP Conditions, shall run with the land and shall not be affected by a change in ownership of the Applicant or the Project, nor by any change in the Ordinance.

1. The Applicant shall develop, construct, operate, and maintain the Project in substantial conformance with the conceptual plans (titled “Concept Plan, Big Pine Solar,” plan sheets 1 thru 3.2, dated June 5, 2024, Revised October 10, 2024), inclusive of the Application revision dated “Revised October 11, 2024”, the “Concept Plan”, with the area shown thereon referred to herein as the “Site”), and all assurances and commitments made within the Application materials, and the conditions imposed on the issued conditional use permit, as determined by the Zoning Administrator. Substantial conformance will be determined by the Zoning Administrator based on his/her review of the record. Deviations determined not to be in substantial conformance with the conceptual plans, or consistent with these Conditions as may be necessary or required, require review and approval as an amendment to the conditional use permit, following the process for the granting of a conditional use permit.
2. Project capacity shall be limited to a maximum of 150 MW for the solar facility. The CUP permits the active developed area of the Site, within the fence line, to consist of up to 1,050 acres on Sussex County Tax Map Parcels: 14-A-2, 25-A-3, 25-A-4, 25-A-6, 39-A-31, 39-A-32 (the “Project Parcels”).
3. The Applicant shall give the County written notice of any change in ownership or entities responsible for operations or asset management of the project within thirty (30) days after the change.
4. Prior to or in conjunction with Site Plan review, the Applicant shall submit details on the linear facilities (access roads, medium voltage collector systems, and telecom equipment) and associated easements which connect noncontiguous portions of the project, including secured easements, to the Zoning Administrator for approval. Approval of the Site Plan

shall not be granted without prior approval of these connections by the Zoning Administrator, or without the existence of executed easements for the connections.

5. To accommodate wildlife crossing of the site, the Applicant shall refer to the Virginia Department of Wildlife Resources Commission's most recent Solar Energy Facility Guidance in the design of the Site Plan, working with the Zoning Administrator to meet the intent, if not the letter of the Guidance.
6. Setbacks shall be as required by the Ordinance, except where they exceed the requirements of the Ordinance, as shown on the Concept Plan or as may be included in the Site Plan. In all cases, setbacks shall be no less than the perimeter setback required by the Ordinance for the Project. There shall be no setbacks required between the internal lot lines of parcels in the Site.
7. For all streams and wetlands there shall be a minimum setback of 200' for all installed equipment. Setbacks from wetlands shall include a minimum of 150' undisturbed buffer. Greater setbacks from these features may be required to address specific site conditions with final setbacks to be determined in coordination with the Zoning Administrator at Site Plan approval, accounting for final detailed site and environmental studies and analysis. In no case shall these setbacks be required to exceed 300' unless otherwise required by applicable regulations, statutes or ordinances. Erosion control and stormwater control measures may be placed within the required setback, but shall not be placed in the undisturbed buffer, except for necessary stormwater outfall structures, as depicted and approved on the approved Site Plan. Required buffers shall remain undisturbed for the life of the project.
8. The project shall provide for a 150' perimeter setback, as defined by the Ordinance, with encroachments allowed only where generally depicted on the Concept Plan. The setbacks areas shall include visual buffers to shield the Project from view. Visual buffers shall be comprised of 150' of existing natural vegetation, and there shall be minimal removal of existing buffer vegetation adjacent to road entry points. As a condition of approval of the Final Site Plan, Applicant will conduct a boundary tour with the Zoning Administrator to determine the locations of gaps in existing natural vegetation within a required buffer area and determine the necessary supplemental plantings to facilitate effective screening of the Project which shall be depicted on the Final Site Plan. All security fencing shall be installed on the interior of the vegetated buffer.
9. The Zoning Administrator may, in connection with Site Plan review and approval, require buffers to be supplemented with additional plantings of native and/or pollinator species where compatible with site conditions. Supplemental plantings of trees (approximately six (6) feet in height and 2.5 inches in caliper at time of planting) and shrubs shall be installed as required by the Zoning Administrator. The trees planted as part of this screening will be no less six (6) feet tall at planting and be in at least three staggered rows, no more than fifteen (15) feet apart. Tree and shrub seedlings shall be planted in the remaining screening area. Other perimeter plantings that effectuate

sufficient visual screening may be approved by the Zoning Administrator, including, but not limited to native evergreen trees. Buffer plantings, both existing and supplemental planting, shall be maintained in good health to ensure sufficiency of the screening, as determined by the Zoning Administrator; damaged or deceased plant materials shall be replaced within a reasonable time, dictated by best practices, as determined by the Zoning Administrator.

10. Applicant shall post a separate security for the ongoing maintenance of the Project's land cover and vegetative buffers in an amount deemed sufficient by the Zoning Administrator and provided by an issuer in an amount reasonably acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) and in a form reasonably acceptable to the County Attorney. For areas of the Project Parcels that remain undeveloped and which are forested, prior to approval of the certificate of occupancy (or equivalent) the Applicant shall submit a forest management plan outlining how these areas will be actively managed by the Applicant during the operation of the facility consistent with best practices to limit the wildfire risk.
11. As part of the Site Plan review, the Applicant shall submit a Construction Management Plan ("CMP") with the final site plan, to include all entrances, in compliance with all Virginia Department of Transportation regulations and requirements during construction and decommissioning of the Solar Facility and in compliance with the Ordinance.
12. As part of the site plan review, the Applicant shall be required to submit a construction management/construction mitigation plan, to be reviewed and approved by the Zoning Administrator. At a minimum this plan shall address and/or include:
 - a. A schedule for two (2) public open houses prior to the commencement of construction activities.
 - b. A construction schedule.
 - c. Traffic control methods for all public roads to be used for ingress/egress (in coordination with the VDOT prior to initiation of construction) shall include, at a minimum, plans and procedures for lane closures, signage, flagging, and site entrance design.
 - d. Coordination with VDOT prior to initiation of construction on the appropriateness of the speed limit on any public access road and support a speed limit reduction, if necessary.
 - e. Site access planning, including procedures for directing and coordinating employee and delivery traffic. Construction Traffic shall be limited to 7:00 am to 9:00 pm, Monday through Saturday, or as may be approved by the County Administrator upon good cause shown by the Applicant.
 - f. Site security; security measures shall be implemented prior to commencement of construction activities.
 - g. Lighting; during construction of the facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all

- adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.
- h. Hours of construction. Driving of posts shall be limited to 7:00 am to 6:00 pm, Monday through Saturday. Driving of posts shall be prohibited on state and federal holidays. The Applicant may request permission from the County Administrator to conduct post driving activity on Sunday, but such permission will be granted or denied at the sole discretion of the County Administrator, after consulting with the Board of Supervisors. All other construction activity shall be permitted Monday through Saturday. The Applicant may conduct construction activity on Sunday, in accordance with the County's Noise Ordinance, so long as such activity does not occur within 500 feet of any residential dwelling.
 - i. Plans for staging and storage of materials and parking. During construction, the setback may be used for staging of materials and parking. No material and equipment laydown area, construction staging area, or construction trailer shall be located within 200 feet of any property containing a residential dwelling.
 - j. Mitigation of dust.
 - k. Mitigation of burning operations.
13. The Applicant shall submit a Construction Traffic Management Plan (CTMP) to include entrances and comply with all Virginia Department of Transportation conditions for the traffic management plan during construction and decommissioning of the Solar Facility.
14. The Applicant shall submit a Road Repair Plan applicable to the routes contained in the CMP, in conjunction with the Site Plan application, to include procedures for maintenance and repair of applicable roadways during construction and decommissioning. Applicant shall be responsible for repairing any damage to roadways occurring during construction or following decommissioning of the project, or any portion thereof. The Road Repair Plan shall include a survey, including video documentation of pre-construction condition of applicable roadways for review and approval by the County. During construction, the roadways shall be monitored for damage caused by construction activity or traffic. The Applicant, once notified by the County of damages caused by Applicant or upon discovery of damage by Applicant during regular inspections, shall make repairs caused by construction traffic at the direction and in consultation with the County Administrator and VDOT within 30 days of written notice, subject to any required delays resulting from coordination with VDOT. After Project construction activities are completed, Applicant will provide a post-construction survey of roadways, including video documentation of the condition of the routes covered by the CMP, for review and approval by the County; the Applicant shall be required to repair any damage necessary to restore such roadways to equivalent or better condition as contained in the pre-construction survey.
15. Prior to approval of the Site Plan and commencement of construction, the Applicant shall provide a bond or other security, in an amount reasonably acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) to cover 100% of the estimated costs of anticipated pre-construction improvements to be made to the public

roads and/or public rights-of-way included in the CMP, as well as the anticipated cost of repairs to be necessary during construction and in a form reasonably to acceptable to the County Attorney. After pre-construction improvements have been completed, the amount of the bond/security shall be reduced equivalent to the costs of the pre-construction improvements. County will release bond once all construction is complete upon review and consent of VDOT.

16. The Applicant shall coordinate with the County's Sheriff Department prior to initiation of construction on speed monitoring plans and devices.
17. As part of the site plan review, the Applicant shall be required to submit a grading plan ("Grading Plan"), to be reviewed and approved by the Zoning Administrator. The Applicant shall post a bond or other security for grading operations, from an issuer amount reasonably acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) and in a form reasonably acceptable to the County Attorney. The Project shall be constructed in compliance with the Grading Plan. At a minimum this plan shall address:
 - a. Clearly show existing and proposed contours;
 - b. Note the locations and amounts of topsoil to be removed (if any) and the percent of the site to be graded;
 - c. Limit grading to the greatest extent practicable, and except as may be necessary to accommodate anticipated and required stormwater management, by avoiding development of steep slopes (those greater than 15%);
 - d. An earthwork balance will be achieved on-site with no import or export of soil except for importing specific quality soils required for construction. Excavated materials may be used for landscaping, berming/screening, or similar, or may otherwise be stockpiled on site and stabilized;
 - e. For any areas of the Project Parcels that are in agricultural production (the production of crops or livestock) at the time of Final Site Plan approval, grading shall be minimized, and where grading is necessary, all topsoil shall be retained and reapplied to the areas from which it was removed.
 - f. In areas proposed to be permanent access roads which will receive gravel or in any areas where more than a few inches of cut are required, topsoil will first be stripped and stockpiled on-site to be used to increase the fertility of areas intended to be seeded;
 - g. Take advantage of natural flow patterns in drainage design and keep the amount of impervious surface as low as possible to reduce storm water storage needs.
 - h. Provide for the installation of all stormwater and erosion and sediment control infrastructure ("Stormwater Infrastructure") at the outset of the project to ensure protection of water quality. Once all Stormwater Infrastructure is complete and approved by the VESCP authority, no more than 300 acres of the land disturbance areas as reflected on the Site Plan shall be disturbed without soil stabilization at any one time. Stabilization, for purposes of erosion and sediment control, shall mean the

application of seed and straw to disturbed areas, which shall be determined by the VESCP authority.

18. The Applicant shall coordinate with state and federal agencies to avoid or limit impacts to the maximum extent practicable to any state and federally listed threatened and endangered species that may occur and have suitable habitats in the project area.
19. The Erosion and Sediment Control plan shall comply with the most recent version of the Virginia Erosion and Sediment Control Handbook at the time of construction. The County will have a third-party review with corrections completed prior to the County review and approval. The Applicant shall construct, maintain, and operate the project in compliance with the approved plan. The Applicant shall post an E&S performance bond (or other security) for the construction portion of the project, to be provided by an issuer in an amount reasonably acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) and in a form reasonably acceptable to the County Attorney.
 - a. To the maximum extent practicable, trees and stumps removed during the course of development shall be mulched on site, with such mulch to be used to mitigate and control stormwater runoff during construction.
 - b. To the maximum extent practicable, topsoil from the site should be maintained on site for use in areas where grading occurs that exposes unsuitable soils where erosion and sediment control vegetation will not take; soil analysis shall be performed to assess the adequate seed mix for exposed soils.
 - c. The stormwater control plan shall comply with the most recent State policies and regulations at the time of design and construction. The County shall have a third-party review with corrections completed prior to submittal for DEQ review and approval. The Applicant shall construct, maintain, and operate the project in compliance with the approved plan. Applicant shall post a stormwater control bond (or other security) provided by an issuer in an amount reasonably acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) and in a form reasonably acceptable to the County Attorney.
20. Ground cover shall be native vegetation where compatible with site conditions and, in all cases, shall be approved by the Zoning Administrator, who may rely on the assistance of a third-party reviewer.
21. The Applicant shall submit a final Vegetation Management Plan for County approval as part of the building permit application. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The Vegetation Management Plan shall include an herbicide land application plan, which shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. The Applicant shall notify the County prior to application of pesticides and

fertilizers if such applications are not approved in the Vegetation Management Plan. The County may require soil and water testing at the Applicant's cost.

22. The Vegetation Management Plan and Landscaping Plan shall conform with requirements necessary for the Project to achieve Certified VA Pollinator-Smart designation, as defined in the Virginia Pollinator-Smart/Bird Habitat Scorecard.
23. The security for permanent security fencing shall be maintained as required by the Ordinance. The security shall be provided by an issuer in an amount acceptable to the Zoning Administrator (who may rely on the opinion of a third-party) and in a form reasonably acceptable to the County Attorney.
24. No fence or similar barrier shall cross the main channel of any stream or through a wetland flagged by County staff on the Site Plan.
25. Permanent entrance roads and parking areas, as designated in the building permit application, will be stabilized with gravel, asphalt, or concrete to minimize dust, and impacts to adjacent properties. Roads internal to the site that are not part of ingress/egress to the site may be compacted dirt.
26. All physically damaged panels or any portion or debris thereof shall be collected by the solar facility operator and removed from the site or stored on site in a location protected from weather and wildlife and from any contact with ground or water until removal from the site can be arranged; storage of damaged panels or portion or debris thereof shall not exceed thirty (30) days.
27. The Applicant shall provide a bank letter of credit, surety bond, or other form of security (the "Decommissioning Security") for the Project as a means of assuring payment of decommissioning costs provided by an issuer in an amount reasonably acceptable to the Zoning Administrator and in a form reasonably acceptable to the County Attorney. The Applicant shall post the Decommissioning Security prior to the Commercial Operation Date. The Decommissioning Security shall include language that failure to renew the current commitment, or provide a new guarantor acceptable to the County, at least ninety (90) days prior to the termination date of the current commitment, will constitute an event of default. If the County receives notice that of the Decommissioning Security has been revoked and Applicant fails to reestablish adequate Decommissioning Security in compliance with this Condition within thirty (30) days after receipt of written notice of such revocation from the County or financial institution providing the letter of credit or surety bond, the County may revoke the Conditional Use Permit and shall be entitled to take all action to obtain the rights to the form of security.
28. The Applicant shall submit a final Decommissioning Plan to the County for approval in conjunction with the building permit. The Applicant shall reimburse the County's reasonable costs for an independent review and analysis by a licensed engineer of the initial decommissioning cost estimates. The Applicant will update the decommissioning

costs estimate every five (5) years and reimburse the County's reasonable costs for an independent review and analysis by a licensed engineer of each decommissioning cost estimate revision.

29. Upon decommissioning of the Solar Facility, all physical improvements, materials, and equipment related to the Project, both surface and subsurface components, shall be removed in their entirety. The soil grade shall also be restored following disturbance caused in the removal process in accordance with applicable Ordinance provisions.
30. Upon decommissioning, all access roads shall be removed, including any geotextile material beneath the roads and granular material. Topsoil shall be redistributed within areas that were previously used for agricultural purposes to provide substantially similar growing media as was present within the areas prior to access road construction. If the current or future landowner requests in writing that the access roads and associated culverts or their related material be exempt from removal, the Applicant shall provide an itemized list of exempt items and copies of request letters in the decommissioning land disturbance application for review and approval by the County.
31. Within twelve (12) months after the cessation of use of the Solar Facility for electrical power generation or transmission, the Applicant, at their sole cost and expense, shall commence decommissioning of Project in accordance with the Decommissioning Plan approved by the County.
32. If the Applicant fails to timely decommission the Project within twenty-four (24) months from the cessation of use of the Project, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning security, and the right to dispose of the equipment and materials on the property, without incurring any financial liability to the owner of the Project or the property owner, and the County shall use reasonable efforts to secure salvage value (if any) for the property disposed of. Following the completion of decommissioning the Project arising out of a default by the Applicant, any remaining Decommissioning Surety held by the County shall be released by the County to the designated beneficiary as identified in the Decommissioning Surety. Upon completion of decommissioning and approval by the County, the County shall sign documentation releasing the decommissioning security.
33. Upon a violation by the Applicant in their decommissioning obligations, the County may enter the Site in accordance with Code of Virginia Section §15.2-2241.2. Nothing herein shall limit other rights or remedies that may be available to the County to enforce the obligations of the Applicant, including under the County's zoning powers.
34. In the event decommissioning is triggered for a portion of the Project and Applicant successfully completes decommissioning for that portion in accordance with the Decommissioning Plan, then the remaining portions may continue in operation as long as otherwise in compliance with the CUP and Ordinance.

35. Subject to the requirement that the County provide the Applicant with an estimate of the third-party costs prior the expense being incurred and comply with applicable Virginia public procurement laws and regulations, the Applicant shall reimburse the County its reasonable costs in obtaining independent third-party reviews (when applicable County permit fees do not cover assumed costs) as required by these conditions and for the review of the site plan (including all specific plans thereof), Erosion and Sediment Control plan, road repair and improvement, decommissioning cost estimates, and bi-annual inspections during operations to verify compliance with all permits and approvals. The Applicant shall also fully fund any temporary or permanent signage as requested or required by the County or the Virginia Department of Transportation (VDOT), as well as any costs associated with traffic planning or traffic mitigation.
36. The design, installation, maintenance, and repair of the Project shall be in accordance with the most current National Electric Code (NFPA 70) available (2014 version or later as applicable) and State Building Code at the time of construction.
37. Inspections.
 - a. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes during normal business hours with 24-hour notice.
 - b. The Applicant shall reimburse the County its reasonable costs by obtaining an independent third-party to conduct inspections required by local and state laws and regulations when those costs exceed the Applicant's building permit fee.
38. Emergency Access, Response, and Training.
 - a. The Applicant shall submit an Emergency Response Plan (the "ER Plan") with the submission of the Site Plan. The ER Plan shall include fire suppression methods that can be immediately deployed during both the construction and operation of the project and shall include other measures external to the facility, but on the project site, developed in consultation with the County Fire Chief and intended to further mitigate any risk of spread of fire beyond the project site. The ER Plan shall also include a program of education and training to be provided for County emergency response staff covering onsite emergency response, as well as information on how the facility will be designed, constructed, operated, and maintained to allow for access by County emergency response staff in the event of an emergency.
 - b. Prior to the end of construction of the Project Site, the Applicant, shall hold training classes with the County's first responders (Fire and Rescue) to provide materials, education, and training on responding to on-site emergencies, to include the provision of information and any necessary equipment to allow first responders to gain access to any part of the facility in the event of an emergency. The training classes shall be scheduled with the assistance of the County's Public Safety Coordinator or designee.
 - c. The Applicant shall provide on-going training as deemed necessary by the Public Safety Coordinator or designee.

- d. In the event any upgrades or changes in technology associated with the Solar Facility results in any change in emergency procedure, including the manner of access to the facility, the Applicant will notify the County Public Safety Coordinator, who may, at their discretion, schedule an additional training on the new equipment.
39. Compliance. The Solar Facility shall be designed, constructed, and tested to meet relevant local, state, and federal standards as applicable.
40. The CUP shall terminate if the solar facility does not receive a building permit within 18 months after the Applicant receives all of the following: (a) any required state approvals; (b) any approvals of the regional transmission organization; and (c) any approvals required by the State Corporation Commission, but in no event more than 24 months of approval of the CUP. The County Administrator, with a written request from the Applicant detailing the reasons for a requested extension, may approve an extension based upon his/her determination that any delay was not the result of actions of, or the inaction of, the Applicant.
41. If the Solar Facility is declared to be unsafe, due to a violation of building or electrical codes, as determined by the fire marshal or building official, and the Applicant of the Facilities fails to respond in writing to such official within thirty (30) days after receipt of a written determination by the fire marshal or building official, the County may revoke the right for the Solar Facilities to continue operation until the unsafe condition is brought into compliance with the applicable building or electrical code. Any such written determination by the fire marshal or building official applicable to this Condition shall include what is required of Applicant to remedy or bring into compliance the unsafe condition at issue. If the unsafe condition cannot be remedied within six (6) months after receipt of a written determination by the fire marshal or building official, the Conditional Use Permit shall be terminated, and the Solar Facility shall be decommissioned.
42. The County may engage a professional construction project manager with demonstrated experience in the development of utility-scale solar projects. Reasonable costs of engaging the construction project manager shall be reimbursed by the Applicant so long as the County complies with the Virginia Public Procurement Act. The role of this project manager will be to serve as a primary point of contact between the County and the Applicant with respect to all aspects of the construction and development of the facility, to provide for Erosion and Sediment Control monitoring and inspection reports, and to assist the County and its staff and any associated third-party consultants in coordinating the compliant development of the facility consistent with all applicable local, state, and federal permits, ordinances, codes, regulations.
43. The Applicant shall provide an individual responsible for performing daily inspections of stormwater and erosion and sediment control practices and devices installed throughout construction. This individual shall coordinate with any professional engaged by the County for the purpose of inspecting or monitoring the Project and shall also coordinate, as necessary, with the local Soil and Water Conservation District, and the Virginia

Department of Environmental Quality, to resolve any stormwater and erosion and sediment control issues that occur on site. Upon request, said individual shall provide a status report to the County.

44. Posting and release of bonds shall be in accordance with the procedures set forth in the Sussex County Zoning Ordinance, Subdivision Ordinance, Erosion & Sediment Control Ordinance and any other applicable local, state laws or regulations.
45. Applicant shall comply with the terms of the Siting Agreement and any violations thereof shall be a violation of this CUP.



MEMORANDUM

Community Development Division

To: Beverly Walkup, Director of Planning
Michael Poarch, Planner II
Sussex County, VA

From: Michael Zehner, AICP, CFM, ENV SP, Director of Community
Development and Planning
Linds Edwards, ENV SP, Planner II

Date: August 9, 2024

Subject: Zoning Completeness and Compliance Review – Big Pine Solar, 150
MW

OVERVIEW AND SUMMARY

As requested, on behalf of Sussex County we are providing a review to determine whether the application submitted for the Big Pine Solar Project by RWE Clean Energy, LLC ("the Applicant") for a 150 MW solar facility located on 12 parcels adjacent to Newville Road/Route 625 (Application dated July 3, 2024; "the Application") is complete, as well as compliant, with respect to applicable requirements of the Sussex County Zoning Ordinance ("SCZO"). The Application has been reviewed for completeness and compliance with respect to the sections and subsections of the SCZO identified below. **Based upon our review, and detailed below, it is our opinion that the Application is both complete and compliant, however, there are two items that need to be addressed by the Applicant before the Application proceeds to further review: 1) the Applicant should provide a version of the Decommissioning Plan certified by an engineer, and 2) the Applicant should address whether an O&M building is proposed, indicate the location on the concept plan and identify the proposed materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.**

Please note, this review has only been performed to determine whether the Application includes all required materials and information, as well as materials and information necessary to conduct a complete review pursuant to § 15.2-2232, *Legal status of plan*, of the Code of Virginia and the SCZO, and to determine that the project meets applicable and objective requirements and standards of the SCZO. This review provides no opinion as to whether the project is in accord with the County's Comprehensive Plan and/or satisfies requisite findings associated with the review of a conditional use permit; those reviews would be completed should the Application proceed to further review.

ZONING COMPLETENESS REVIEW

Regulations applicable to the Application, as set forth in the SCZO and relevant to the completeness and compliance of the Application, are as follows, with the Berkley Group's interpretation of application completeness and/or compliance noted in **bold underlined type**:

Sec. 16-1, Definitions

Battery storage facility means a type of energy storage power station that uses a group of batteries to store electrical energy as a source of power on electrical grids.

Battery energy storage facilities (battery facilities) means one or more battery cells for storing electrical energy stored in a Battery Energy Storage System ("BESS") with a Battery Management System ("BMS"). Facilities are generally used to supplement grid storage capacity. Battery facilities may be permitted as:

- an accessory use to utility-scale solar facilities, other energy generation facilities, or substations; or
- a primary use on a parcel contiguous to utility-scale solar facilities, other energy generation facilities, and substations.

Solar facility, utility-scale means a ground-mounted facility that generates electricity from sunlight on a facility area of not less than 65 acres based upon the 100-acre minimum area requirement contained in Section 16-406(b)(1). In no case shall any utility-scale facility have a maximum coverage area of more than 65% in accordance with Section 16-406(b)(2). This size is approximately equivalent to a rated capacity of about one megawatt (MW) alternating current or greater (excluding Solar facility, multi-family shared). Facilities are generally used to provide electricity to a utility provider. These facilities typically include inverters, a substation, a switchyard, and a generator lead line (gen-tie line) to interconnect to a grid transmission line.

Compliant; based upon the generation capacity of the proposed facility (150 MW) and other aspects of the proposal, the facility is a utility-scale solar facility, as defined.

Sec. 16-403, Zoning districts

- c. Solar facilities shall be permitted in zoning districts as follows:

Solar Facility	General Agricultural, A-1	Limited Industrial, I-1	General Industrial, I-2	Residential Multi-Family, R-1
Multi-family shared	CUP	CUP	CUP	CUP
Medium-scale	CUP	By-right	By-right	-
Utility-scale	CUP	CUP	CUP	-

Compliant; the facility site is zoned A-1 Agricultural, and the Applicant is seeking a conditional use permit.

- d. Battery facilities shall be subject to a Conditional Use Permit and permitted as follows:
1. An accessory use to utility-scale solar facilities, other energy generation facilities, or substations; or
 2. A primary use on a parcel contiguous to utility-scale solar facilities, other energy generation facilities, and substations.

Battery Facility	General Agricultural, A-1	Limited Industrial, I-1	General Industrial, I-2	Residential Multi-Family, R-1
Primary use	CUP	CUP	CUP	-
Accessory use	CUP	CUP	CUP	CUP

Not applicable.

- e. Solar facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible.

Compliant; the facility site is zoned A-1 Agricultural and located near brownfields, landfills, or existing industrial uses.

Sec. 16-404, Conditional Use Permit process

- a. Pre-application meeting. A pre-application meeting shall be held with the zoning administrator to discuss the location, scale, and nature of the proposed use, what will be expected during that process, and the potential for a siting agreement.

Complete; the Applicant held a pre-application meeting between the Applicant or a representative and the Zoning Administrator.

- b. Neighborhood meeting. A public meeting shall be held prior to the public hearing with the Planning Commission to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project.

Completeness anticipated; the Applicant will hold a pre-application meeting between the Applicant or a representative and the Zoning Administrator on September 26, 2024.

- c. Submittal of the permit application and fees.
1. There is a combined application for the 2232 review and CUP permit.
 2. There are separate fees for the 2232 review and CUP permit.

Complete; according to County staff, the permit application and fees have been submitted to the Zoning Administrator.

Sec. 16-405, Conditional Use Permit application

- a. Application packet including:
1. Completed County application form and checklist.
 2. Documents demonstrating the ownership of the subject parcel(s).
 3. Proof that the applicant has authorization to act upon the owner's behalf.
 4. Identification of the intended utility company who will interconnect to the facility.
 5. List of all adjacent property owners, their tax map numbers, and addresses.
 6. A description of the current use and physical characteristics of the subject parcels.
 7. A description of the existing uses of nearby properties.
 8. A narrative identifying the applicant, owner, or operator, and describing the proposed solar facility project, including an overview of the project and its location, approximate rated capacity of the solar facility project, the approximate number of panels, representative types, expected footprint of solar equipment to be constructed, and type and location of interconnection to electrical grid.
 9. Aerial imagery which shows the proposed location of the solar facility, fenced area, driveways, and interconnection to electrical grid with the closest distance to all adjacent property lines and dwellings along with main points of ingress/egress.
 10. Payment of the application fee and any additional review costs, advertising, or other required staff time.

Complete; the Application includes all the required Application information.

- b. Concept plan. A concept plan prepared by an engineer with a professional engineering license in the Commonwealth of Virginia, that shall include the following:
1. Project title information including tax parcel number, zoning, owner names, address, and phone numbers.
 2. Neighboring property information including tax parcel number, zoning, and owner names.
 3. Existing wetlands, waterways, and floodplains.
 4. Locations and types of soils on site.
 5. Areas of steep slopes.
 6. Existing and proposed buildings and structures including preliminary locations of the proposed solar panels and related equipment.
 7. Existing and proposed points of ingress/egress including access roads, drives, turnout locations, and parking.
 8. Location of substations, electrical cabling from the solar facility systems to the substations, ancillary equipment, buildings, and structures including those within any applicable setback.
 9. Fencing or other methods of ensuring public safety.
 10. Locations of topsoil to be removed and preserved.
 11. Locations of stormwater drainage and erosion and sediment control features.
 12. Setbacks.
 13. The location and nature of proposed buffers and screening elements, including vegetative and constructed buffers.

Complete/Compliant; the Concept Plan and Application is complete and/or compliant. Please note, while the Applicant has specifically identified the locations of topsoil to be removed and preserved, the Applicant has indicated that "specific locations of topsoil to be removed and preserved will be identified on the final construction erosion and sediment control/stormwater management plans that will be required for this project. Topsoil stripped during grading shall be stockpiled, stabilized, and replaced during final grading and prior to installation of panels, soil stockpiles will be designed and constructed in accordance with 9VAC25-840-40."

- c. An estimated construction schedule.

Complete; the Application includes a construction schedule incorporating all required information and content.

- d. Environmental inventory and impact statement regarding any site and viewshed impacts, including direct and indirect impacts to national and state forests, national or state parks, wildlife management areas, conservation easements, recreational areas, or any known historic or cultural resources within three (3) miles of the proposed project using information provided by the Virginia Department of Environmental Quality (DEQ), the Virginia Department of Conservation (DCR), Virginia Department of Wildlife Resources (DWR), Virginia Department of Historic Resources (DHR), and/or a report prepared by a qualified third party, such as ConserveVirginia or Virginia Cultural Resource Information System.

Complete; the Application includes an environmental inventory and impact statement incorporating all required information and content.

- e. A visual impact analysis demonstrating project siting and proposed mitigation, if necessary, so that the solar facility minimizes impact on the visual character of the County.
 - 1. The applicant shall provide accurate, to scale, photographic simulations showing the relationship of the solar facility and its associated amenities and development to its surroundings. The photographic simulations shall show such views of solar structures from locations such as property lines and roadways, as deemed necessary by the County in order to assess the visual impact of the solar facility.
 - 2. The total number of simulations and the perspectives from which they are prepared shall be established by the zoning administrator after the pre-application meeting.

Complete; the Application includes a visual impact analysis and photographic simulations that incorporate all required information and content.

- f. Solar facility inventory. An inventory of all solar facilities – existing or proposed – within a four (4) mile radius.

Complete; the Application includes a map of all solar facilities within a 4-mile radius.

- g. Draft traffic study. The study shall include modelling the construction and decommissioning processes. County staff will review the study in cooperation with VDOT.

Complete; the Application includes a draft traffic study incorporating all required information and coordination with VDOT.

- h. Draft landscaping plan. The plan shall indicate:
1. All ground cover, screening and buffering materials, landscaping, and elevations.
 - a. Ground cover shall be native vegetation where compatible with site conditions.
 - b. Screening vegetation shall include pollinator plants where compatible with site conditions.
 - c. Only EPA approved herbicides shall be used for vegetative and weed control at the solar energy facility by a licensed applicator. No herbicides shall be used within 150 feet of the location of an approved ground water well. The Applicant shall submit an herbicide land application plan prior to approval of the certificate of occupancy (or equivalent). The plan shall specify the type of herbicides to be used, the frequency of land application, the identification of approved groundwater wells, wetlands, streams, and the distances from land application areas to features such as wells, wetlands, streams, and other bodies of water. The operator shall notify the County prior to application of pesticides and fertilizers. The County reserves the right to request soil and water testing.
 2. Locations of wildlife corridors.
 3. Maintenance requirements.

Complete; the Application includes a draft landscaping and vegetation maintenance plan as sheet C4.0-4.1 incorporating all required information and design elements.

- i. Draft decommissioning and reclamation plan. A detailed decommissioning and reclamation plan, certified by an engineer, which shall include the following:
1. The anticipated life of the project. The applicant shall provide the basis for determining the anticipated life of the project.
 2. The estimated decommissioning and reclamation cost in current dollars. The applicant shall provide a cost estimate for the decommissioning and reclamation of the facility prepared by a professional engineer or contractor who has expertise in the removal of

- solar facilities. The decommissioning and reclamation cost estimate shall explicitly detail the cost without any reduction for salvage value.
3. The method of ensuring that funds will be available for decommissioning and reclamation. A proposed method of providing appropriate escrow, surety, or security for the cost of the decommissioning and reclamation plan. The surety shall be updated when the decommissioning and reclamation cost estimate is updated. The estimated cost of decommissioning shall be guaranteed by the deposit of funds in an amount equal to the estimated cost in an escrow account at a federally insured financial institution approved by the County unless otherwise provided for in subsection d below.
 - a. The applicant shall deposit the required amount into the approved escrow account before any building permit is issued to allow construction of the solar facility.
 - b. The escrow account agreement shall prohibit the release of the escrow funds without the written consent of the County. The County shall consent to the release of the escrow funds upon on the owner's or occupant's compliance with the approved decommissioning and reclamation plan. The County may approve the partial release of escrow funds as portions of the approved decommissioning plan are performed.
 - c. The amount of funds required to be deposited in the escrow account shall be the full amount of the estimated decommissioning and reclamation cost.
 - d. The County may approve alternative methods to secure the availability of funds to pay for the decommissioning and reclamation of a solar facility, such as a performance bond, letter of credit, or other security approved by the County.
 4. The method that the estimated cost will be kept current. The decommissioning and reclamation cost estimate shall include a mechanism for calculating increased removal costs due to inflation. This cost estimate shall be recalculated every five (5) years and the surety shall be updated accordingly. If the recalculated estimated cost exceeds the original estimated cost by ten percent (10%), then the owner or occupant shall deposit additional funds into the escrow account to meet the new cost estimate. If the recalculated estimated cost is less than ninety percent (90%) of the original estimated cost, then the County may approve reducing the amount of the escrow account to the recalculated estimate of cost.

Complete; the Application includes a decommissioning plan incorporating all required information. The Applicant should provide a version of the plan certified by an engineer.

5. The manner in which the site will be decommissioned and reclaimed. This will include:
 - a. Notice to the Zoning Administrator by certified mail and in person of the proposed date of discontinued operations and plans for removal.
 - b. A traffic study submitted with application modelling the decommissioning processes. County staff will review the study in cooperation with VDOT.
 - c. An estimated deconstruction schedule.
 - d. Removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural or forestall uses.
 - e. The site shall be graded and re-seeded or replanted within 12 months of removal of solar facilities to restore it to as natural a pre-development condition as possible. Re-grading and re-seeding or replanting shall be initiated within a six-month period of removal of equipment. Any exception to site restoration, such as leaving access roads in place or re-seeded or replanted must be requested by the landowner in writing, and this request must be approved by the Board of Supervisors.
 - f. Hazardous material from the property shall be disposed of in accordance with federal and state law.

Complete; the Application includes a decommissioning and reclamation plan incorporating all required information and design elements.

- j. Additional information may be required as determined by the Zoning Administrator, such as a scaled elevation view of the property and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping plan, coverage map, and additional information that may be necessary for a technical review of the proposal.

Not applicable at this time.

Sec. 16-406. Minimum development and performance standards

- a. A utility-scale solar facility shall be constructed, operated, and maintained in substantial compliance with the approved concept plan with allowances for changes required by the Virginia Department of Environmental Quality (DEQ) Permit by Rule (PBR) or State Corporation Commission (SCC) permit process.

Compliance anticipated; the Applicant has specifically mentioned their intentions to comply with DEQ, and other agency, regulations.

- b. Location standards for utility-scale solar facilities. The location standards stated below for utility-scale solar facilities are intended to mitigate the adverse effects of such uses on adjoining property owners, the area, and the County.

1. The minimum area of a utility-scale solar facility shall be 100 or more.

Compliant; the facility is larger than 100 acres.

2. The equipment, improvements, structures, and percent of acreage coverage of a utility-scale solar facility shall be shown on the approved concept plan and site plan. The percent of acreage coverage shall not exceed 65%.

Compliant; the Application notes that the area of disturbance is approximately 1,647.8 acres, or 36.6% of the total site area.

- c. Height.

1. The maximum height of the lowest edge of photovoltaic panels shall be 10 feet as measured from the finished grade. The maximum height of the highest edge of photovoltaic panels shall not exceed 15 feet as measured from the finished grade.
2. The maximum height of other facility structures shall not exceed 15 feet. This limit shall not apply to utility poles or the interconnection to the overhead electric utility grid.
3. The Board of Supervisors may approve a greater height based upon the demonstration of a significant need where the impacts of increased height are mitigated.

Compliant; the Application indicates compliance with height requirements.

- d. Setbacks. Solar facilities shall meet all setback requirements for primary structures for the zoning district in which the facility is located and the requirements set forth below (the more restrictive requirements shall apply).
1. The minimum setback of structures and uses associated with the facility, including fencing, PV panels, parking areas, and outdoor storage, but not including landscaping and berming, shall be:
 - a. 150 feet from adjacent property lines.
 - b. 150 feet from all public rights-of-way.
 - c. 300 feet from a dwelling.
 2. The Planning Commission or Board of Supervisors may require increased setbacks up to 400 feet in situations where the height of structures or the topography affects the visual impact of the facility.
 3. These setback requirements shall not apply to internal property lines of those parcels on which a solar facility is located.
 4. Access, erosion and stormwater structures, and interconnection to the electrical grid may be made through setback areas provided that such are generally perpendicular to the property line.
 5. Vehicular access to the site shall be a minimum of 50 feet from the nearest dwelling located on adjacent property.

Compliant; required setbacks are accurately depicted on the submitted Concept Plan.

- e. Buffer. The buffer shall be located within the setbacks required under this Section and shall run around the entire perimeter of the property. The buffer shall be maintained for the life of the facility.

Compliance anticipated; the Application includes a buffer and vegetation maintenance plan.

- f. Screening. The facilities, including security fencing that is not ornamental, shall be screened from the ground-level view of adjacent properties or a public street in the buffer zone. Screening may also be required in other locations to screen specific uses or structures. A recommendation that the screening and/or buffer creation requirements be waived or altered may be made by the Planning Commission when the applicant proposes to use existing wetlands or woodlands to satisfy the screening requirement. The wetlands or woodlands shall be permanently protected as a designated buffer and the overall buffer shall measure at least 150 feet. Screening methods may include:

1. Existing Screening: Existing vegetation, topography, buildings, open space, or other elements located on the site may be considered as part of the required screening. Existing trees and vegetation may be retained within the buffer area except where dead, diseased, or as necessary for development or to promote healthy growth.
2. Vegetative Screening: In the event existing vegetation or landforms providing the screening are inadequate or disturbed, new plantings shall be provided in a landscaped strip at least 50 feet wide. Landscaping intended for screening shall consist of a combination of non-invasive species, pollinator species, and native plants, shrubs, trees, grasses, forbs, and wildflowers. Trees intended for screening shall consist of a combination of evergreen and deciduous trees that are 5-6 ft. in height at time of planting. A triple row of trees shall be placed on average at 15 ft. on center. A list of appropriate plant materials shall be available at the Planning Office. Species listed on DCR's Invasive Plant Species list shall not be used.

Compliance anticipated; the proposed Project includes both vegetative screening and utilization of the existing vegetation.

3. Berming: Berms shall generally be constructed with a 3:1 side slope to rise ratio, 4-6 ft. above the adjacent grade, with a 3 ft. wide top with appropriate pollinator-friendly native plants, shrubs, trees, forbs, and wildflowers. The outside edges of the berm shall be sculpted such that there are vertical and horizontal undulations to give variations in appearance. When completed, the berm should not have a uniform appearance like a dike.
4. Opaque Architectural Fencing. Fencing intended for screening shall be at least 75 percent visually solid as viewed on any line perpendicular to the fence from adjacent property or a public street. Such fencing may be used in combination with other screening methods but shall not be the primary method. A typical example is the use of wood privacy fencing and landscaping to screen structures such as substations. Depending on the location, ornamental features may be required on the fence. Fencing material shall not include plastic slats.
- e. Security Fence. The facilities shall be enclosed by security fencing not less than six (6) feet in height and topped with barbed wire, as appropriate. A performance bond reflecting the costs of anticipated fence maintenance shall be posted and maintained. Failure to maintain the security fencing shall result in revocation of the CUP and the facility's decommissioning.

Compliance anticipated; the proposed Project includes security fencing not less than 6 feet in height.

- f. Ground cover on the site shall be native vegetation and maintained in accordance with the landscaping plan in accordance with established performance measures. A performance bond reflecting the costs of anticipated maintenance shall be posted and maintained. Failure to maintain the ground cover shall result in revocation of the CUP and the facility's decommissioning. The operator shall notify the County prior to application of pesticides and fertilizers. The County reserves the right to request soil and water testing.

Compliant; the Application addresses the ground cover regulation appropriately. Compliance with the performance bond requirement is anticipated and referenced by the Applicant.

- g. The Applicant shall identify access corridor(s) for wildlife to navigate through and across the Solar Facility. The proposed wildlife corridor(s) shall be shown on the site plan submitted to the County. Areas between fencing shall be kept open to allow for the movement of migratory animals and other wildlife.

Compliant; the Application sufficiently addresses this requirement.

- h. The design of support buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and surrounding structures.

Compliance unknown; the Application indicates that the facility will include an Operations & Maintenance Building and refers to the concept plan as providing detailed information, but no such facility/building is identified on the concept plan

- i. The owner or operator shall maintain the solar facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the equipment and structures, as applicable, and maintenance of the buffer areas and landscaping. Site access shall be maintained to a level acceptable to the County. The project owner shall be responsible for the cost of maintaining the solar facility and access roads, and the cost of repairing damage to private roads occurring as a result of construction and operation.

Compliance anticipated; the Owner shall maintain the solar facility in good condition.

j. Inspections.

1. The Applicant will allow designated County representatives or employees access to the facility for inspection purposes with 24-hour notice.
2. The Applicant shall reimburse the County its costs in obtaining an independent third-party to conduct inspections required by local and state laws and regulations.

Compliance anticipated; the Applicant will allow for inspections.

- k. A utility-scale solar facility shall be designed and maintained in compliance with standards contained in applicable local, state, and federal building codes and regulations that were in force at the time of the permit approval.

Compliance anticipated with respect to state and federal codes and regulations; noncompliant as noted herein with respect to local regulations.

- l. The applicant shall provide proof of adequate liability insurance for a solar facility prior to beginning construction and before the issuance of a zoning or building permit to the zoning administrator.

Compliance anticipated; liability insurance is not specifically mentioned in the Application, proof would be required prior to beginning construction.

- m. Lighting fixtures as approved by the County shall be the minimum necessary for safety and/or security purposes to protect the night sky by facing downward and to minimize off-site glare. No facility shall produce glare that would constitute a nuisance to the public. Any exceptions shall be enumerated on the Concept Plan and approved by the zoning administrator.

Compliance anticipated; the Applicant notes lighting will be dark-sky compliant and will face downward.

- n. No signage of any type may be placed on the facility other than notices, warnings, and identification information required by law.

Compliance anticipated; no signage is mentioned in the Application beyond emergency signage.

- o. At all times, the solar facility shall comply with the County's noise ordinance.

Compliance anticipated; the solar facility shall comply with the County's noise ordinance.

- p. Coordination of local emergency services. Applicants for new solar facilities shall coordinate with the County's emergency services staff to provide materials, education and/or training to the departments serving the property with emergency services in how to safely respond to on-site emergencies.

Compliant; the Application includes plans for coordination and education of local emergency services staff.

- q. Decommissioning
 - 1. Solar facilities which have reached the end of their useful life or have not been in active and continuous service for a period of six (6) months shall be removed at the owner's or operator's expense, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs; however, the County may require evidentiary support that a longer repair period is necessary.
 - 2. The owner or operator shall notify the zoning administrator by certified mail and in person of the proposed date of discontinued operations and plans for removal.
 - 3. Decommissioning shall include removal of all solar electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any other associated facilities, so that any agricultural ground upon which the facility and/or system was located is again tillable and suitable for agricultural or forestall uses. The site shall be graded and re-seeded to restore it to as natural a pre-development condition as possible or replanted with pine seedlings to stimulate pre-timber pre-development conditions as indicated on the Concept Plan. Any exception to site restoration, such as leaving access roads in place or seeding instead of planting seedlings must be requested by the landowner in writing, and this request must be approved by the Board of Supervisors.
 - 4. The site shall be re-graded and re-seeded or replanted within 12 months of removal of solar facilities. Re-grading and re-seeding or replanting shall be initiated within a six-month period of removal of equipment.

5. Decommissioning and reclamation shall be performed in compliance with the approved decommissioning and reclamation plan. The Board of Supervisors may approve any appropriate amendments to or modifications of the decommissioning plan.
6. Hazardous material from the property shall be disposed of in accordance with federal and state law.
7. If the owner or operator of the solar facility fails to remove the installation in accordance with the requirements of this permit or within the proposed date of decommissioning, the County may collect the surety and the County or hired third party may enter the property to physically remove the installation.

Complete; the Application includes a decommissioning plan incorporating all required information and content. However, as noted, the Applicant should provide a version of this plan certified by an engineer.

- r. Any other condition added by the Planning Commission or Board of Supervisors as part of a CUP approval.

Not applicable; conditions will be considered as a part of the CUP process.

Michael Poarch

From: Brann, Lee (DWR) <Lee.Brann@dwr.virginia.gov>
Sent: Tuesday, August 20, 2024 11:05 AM
To: Michael Poarch
Cc: Schul, Hannah (DWR); Watson, Brian (DWR); Pinder, Michael (DWR); nhreview (DCR); Strawderman, Nicole (DWR); Kleopfer, John (DWR)
Subject: ESSLog# 45389_Big Pine Solar Project_DWR_HLB20240820
Attachments: Mabees-Salamander-Information-Sheet.pdf; mussel-guidelines-11-2018.pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Mr. Poarch,

We have reviewed the subject project that proposes to construct a solar energy facility in Sussex County. We document state endangered Blackbanded Sunfish and state threatened Loggerhead Shrikes from the project area. Neblett's Mill Run in the project area is designated a Threatened and Endangered Species Water due to the presence of Blackbanded Sunfish and federally threatened state threatened Yellow Lances. Cabin Branch, Dobie Swamp, Joseph Swamp, and several tributaries to these waters in the project area are designated Threatened and Endangered Species Waters due to the presence of Blackbanded Sunfish.

It is difficult to determine, from the information provided, whether any instream work is proposed in Neblett's Mill Run as part of this project. If any work is proposed in Neblett's Mill Run, we recommend that a mussel survey be performed from 100 meters upstream through 400 meters downstream impact areas. This survey should be performed by a qualified, permitted biologist, preferably no more than six months prior to the start of construction. If mussel relocations are necessary, they should be coordinated with Brian Watson, DWR Region II Aquatic Resources Biologist at 434-525-7522 or Brian.Watson@dwr.virginia.gov, and no federally listed species should be relocated without first coordinating with the USFWS (804-693-6694). All survey and relocation activities should adhere to the attached guidance. In addition, we recommend a time of year restriction (TOYR) on all instream work (not including any mussel surveys) from May 15 through July 31 of any year, protective of Yellow Lances.

Survey results should be made available to Lee Brann, DWR Environmental Services Biologist, at Lee.Brann@dwr.virginia.gov and to Brian Watson at Brian.Watson@dwr.virginia.gov. Upon review of the results, we will make final recommendations regarding the protection of listed species known from the area. All survey reports should reference the five-digit ESSLog# displayed in the subject line of this email.

If the applicant prefers, they may provide us with good, representative photographs of the impact area(s) for our review. The photos should clearly depict the size of the stream, the substrate type, and the banks up and downstream of the site. Upon review of the photos, we may be able to rule out the need for a mussel survey based on the habitat available on site.

To best protect Blackbanded Sunfish from adverse impacts, we recommend a time of year restriction on any instream work in Cabin Branch, Dobie Swamp, Joseph Swamp, designated tributaries to these waters, and any perennial tributaries to designated waters in the project area from May 1 through June 30 of any year. If work in intermittent or ephemeral tributaries to designated waters can be performed entirely in the dry, when there is no water in the channel, a TOYR protective of Blackbanded Sunfish will not be necessary in those streams. However, if any such work cannot be performed in entirely in the dry, we recommend a TOYR on such work from May 1 through June 30 of any year.

We also recommend protecting from impacts a naturally vegetated buffer of at least 100 ft on both sides of all intermittent or perennial streams, a naturally vegetated buffer of at least 200 ft on both sides of all perennial tributaries to the aforementioned waters known to support listed aquatic species, and a naturally

vegetated buffer of at least 300 ft on both sides of the aforementioned waters known to support listed aquatic species.

The project site is located in an area of the Commonwealth known to have a year-round presence of federally endangered state endangered Northern Long-Eared Bat (NLEB). If your project has a federal connection (nexus), the U.S. Fish and Wildlife Service in Virginia has developed a website that provides the steps and information necessary to allow any individual or entity requiring review/approval of their project to complete a review and come to the appropriate conclusion regarding potential project impacts on Northern Long-Eared Bats. This site can be accessed at <https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>. You may also need to coordinate with the appropriate federal agency that is authorizing, funding, or carrying out the proposed activity.

If your project has no federal nexus, and tree removal is proposed, we recommend the options below to avoid adverse impacts upon NLEB:

Option 1: Assume that NLEBs are present on site and adhere to a time of year restriction on any tree clearing within close proximity of NLEB from December 15 - February 15 and May 1 - July 15 of any year.

Option 2: Hire a consultant to perform a NLEB survey, in adherence to Service protocols, throughout the project/activity site and coordinate the results of that survey with DWR.

U.S. Fish & Wildlife Service Survey Protocols are available here: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>

Coordinate with DWR: Rick Reynolds, DWR Mammologist, at 540-248-9360 or Rick.Reynolds@dwr.virginia.gov and with DWR's Environmental Services Section at 804-481-5296 or ESSProjects@dwr.virginia.gov. Upon review of the survey results, the DWR will make final comments regarding the protection of Northern Long-Eared Bats associated with your project.

We also note that much of the project site models out as potential habitat for state threatened Mabee's Salamander. While we are not formally recommending a habitat assessment for this species at the project site at this time, DWR would be very interested in gaining a better understanding of the extent of suitable habitat for this species available at the site and potentially gaining knowledge of any presence of the species on site. We hope that the applicant will consider the needs of Mabee's Salamanders and incorporate those considerations into project planning and design moving forward, and we are happy to provide guidance to the applicant in that effort. We recommend that, prior to the start of construction, all contractors are trained in the identification, basic natural history, and legal status of the Mabee's Salamander. This could be accomplished via an appropriate information sheet distributed to those working on the project (see attached). If you have questions about or encounter this species and need assistance, please contact John (JD) Kleopfer, Herpetologist, Department of Wildlife Resources, at 804-829-6703 or John.Kleopfer@dwr.virginia.gov.

Given the scope and location of the proposed work, we do not anticipate it to result in significant adverse impacts upon Loggerhead Shrikes.

This project site is located within close proximity of historic and/or active bald eagle nests. To ensure protection of bald eagles in compliance with the Bald and Golden Eagle Act, we recommend using the Center for Conservation Biology (CCB) [Eagle Nest Locator](#) to determine if any active eagle nests are known from the project area. If active bald eagle nests have been documented from the project area, we recommend that the project proceed in a manner consistent with [state and federal guidelines for protection of bald eagles](#); including coordination, if indicated, with the U.S. Fish and Wildlife Service regarding possible impacts upon bald eagles or the need for a federal bald eagle take permit.

The U.S. Fish and Wildlife Service (in Virginia) utilizes an online project review process (<https://www.fws.gov/office/virginia-ecological-services/virginia-field-office-online-review-process>) to facilitate compliance with the Endangered Species Act (16 U.S.C. 1531-1544, 87 Stat. 884) (ESA), as amended. The process enables users to 1) follow step-by-step guidance; 2) access information that will allow them to identify threatened and endangered species, designated critical habitat, and other Federal

trust resources that may be affected by their project; and 3) accurately reach determinations regarding the potential effects of their project on these resources as required under the ESA. If you have questions regarding the online review process, please contact Rachel Case at rachel_case@fws.gov.

This project is located within 2 miles of a documented occurrence of a state or federal threatened or endangered plant or insect species and/or other Natural Heritage coordination species. Therefore, we recommend coordination with VDCR-DNH regarding protection of these resources.

To minimize adverse impacts of solar energy facilities upon wildlife and other natural resources, we recommend adherence to the project design, site development, and operational guidance found within the document at the following link: <https://www.dwr.virginia.gov/wp-content/uploads/media/Solar-Energy-Facility-Guidance.pdf>.

Thank you,



Lee Brann

Environmental Services Biologist
Wildlife Information and Environmental Services

P 804.367.1295

C 804.481.1934

Department of Wildlife Resources

CONSERVE. CONNECT. PROTECT.

A 7870 Villa Park Drive, P.O. Box 90778, Henrico, VA 23228

www.VirginiaWildlife.gov



COMMONWEALTH of VIRGINIA

Travis A. Voyles
Secretary of Natural and
Historic Resources

Department of Historic Resources
2801 Kensington Avenue, Richmond, Virginia 23221

Julie V. Langan
Director
Tel: (804) 367-2323
Fax: (804) 367-2391
www.dhr.virginia.gov

July 16, 2024

Robert Taylor
Dutton + Associates, LLC
1115 Crowder Dr.
Midlothian, VA 23113

RE- Big Pine Solar Project
Sussex County, VA
DHR File No. 2024-3491

Dear Mr. Taylor

We have received for review the revised document *Phase IA Cultural Resource Assessment of the ±1,822-Hectare (±4,502-Acre) Big Pine Solar Project Area, Sussex County, Virginia*, prepared Dutton + Associates (D+A) for Timmons Group. Our comments are provided as technical assistance to Timmons Group. We have not been notified by any Federal agency of their involvement in this project; however, we reserve the right to provide additional comment pursuant to the National Historic Preservation Act, if applicable.

The Phase IA cultural resources assessment was conducted for planning purposes in order to confirm the existing conditions of the property, note any surface evidence of cultural activity, and recommend appropriate survey strategies for the project area. The proposed Project Area encompasses approximately 4,502 acres. Due to the extensive disturbance from timbering activities, DHR finds the proposed archaeological phase I survey work plan to be generally sufficient for identifying historic properties.

As you know, DHR generally recommends a survey of all architectural resources 45 years and older be recorded and assessed for eligibility and project impacts. DHR requires previously-recorded resources to be resurveyed if they have not been surveyed in the last five years. We generally rely on the accuracy of survey data on specific resources for no more than five years, due to possible changes to resources that may occur over the passage of time, advancements in scholarship, and rapid development that affects many parts of the state.

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5443
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7029
Fax: (540) 868-7033

Eastern Region Office
2801 Kensington Avenue
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Page 2
DHR File No. 2024-3491
July 16, 2024

If you have any questions regarding these comments, please contact me at 804-482-8091 or via email, jennifer.bellville-marrion@dhr.virginia.gov.

Sincerely,



Jenny Bellville-Marrion
Project Review Archaeologist
Review and Compliance Division

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5443
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7029
Fax: (540) 868-7033

Eastern Region Office
2801 Kensington Avenue
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Travis A. Voyles
Secretary of Natural and Historic Resources

Matthew S. Wells
Director

Andrew W. Smith
Chief Deputy Director



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

Frank N. Stovall
Deputy Director
for Operations

Darryl Glover
Deputy Director for
Dam Safety,
Floodplain Management and
Soil and Water Conservation

Laura Ellis
Deputy Director for
Administration and Finance

August 2, 2024

Micheal Poarch
Sussex County
20135 Princeton Road
Sussex, Virginia 23884

Re: Big Pine Solar

Dear Mr. Poarch:

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

Terrestrial Resources

According to the information in our files, the Joseph Swamp Conservation Site is located within the project area, including a 100-foot buffer. Conservation sites are tools for representing key areas of the landscape that warrant further review for possible conservation action because of the natural heritage resources and habitat they support. Conservation sites are polygons built around one or more rare plant, animal, or natural community designed to include the element and, where possible, its associated habitat, and buffer or other adjacent land thought necessary for the element's conservation. Conservation sites are given a biodiversity significance ranking (B-rank) based on the rarity, quality, and number of element occurrences they contain; on a scale of 1-5, 1 being most significant. The Joseph Swamp Conservation Site has been assigned a B-rank of B3, which represents a site of high significance. The natural heritage resources associated with this site are:

<i>Asclepias rubra</i>	Red Milkweed	G4G5/S2/NL/NL
<i>Lilium pyrophilum</i>	Sandhills Bog Lily	G2/S1/SOC/NL
<i>Sabatia campanulata</i>	Slender Marsh-pink	G4/S2/NL/NL

Red Milkweed a state rare perennial herb, inhabits wet pine savannas, sandhill seeps, seepage swamps (Weakley, in prep.). It has also been documented in such disturbed areas as powerline rights-of-way (TNC, 1996). This species produces dull red to lavender flowers from June through July (Radford et al, 1968). Like many wetland species, this species has suffered a loss of habitat due to conversion and/or draining of wetlands. In addition, this plant has declined as a result of active fire suppression, which has eliminated significant herbaceous-dominated wetlands (DCR, 1989). Red milkweed is currently known from 31 locations in Virginia's coastal plain and piedmont regions, of which 4 occurrences are historic.

600 East Main Street, 24th Floor | Richmond, Virginia 23219 | 804-786-6124

**State Parks • Soil and Water Conservation • Outdoor Recreation Planning
Natural Heritage • Dam Safety and Floodplain Management • Land Conservation**

Sandhills bog lily is a globally rare plant that is restricted to a narrow range, only 200 individual plants have been documented in fewer than 50 sites across Georgia, North Carolina, South Carolina and Virginia (NatureServe 2024). Sandhills bog lily is found in bogs, boggy swales in powerline rights-of-ways, and peaty seepage swamps that are open from fire or mechanical clearing. It is rare in the inner coastal plain of Virginia south of the James River with a significantly disjunct population at Fort Walker (Virginia Botanical Associates 2024). It is currently known from 9 extant occurrences in Virginia.

The sandhills bog lily is threatened by habitat conversion of stream heads, often into fishing ponds or farm impoundments. The habitat for this species requires periodic disturbances to prevent encroachment of shrubs and trees (NatureServe 2024). It persists in areas that are frequently burned or are mechanically cleared, like powerlines. Fire suppression and the use of herbicides in managed areas are also potential threats to populations of the sandhills bog lily (NatureServe 2024). Please note that this species is listed as a species of concern (SOC) by the US Fish and Wildlife Service, however this designation has no legal status.

Slender Marsh-pink is a perennial that inhabits boggy areas with acid or standing seepage water under an open canopy (Ludwig, 1996). Its bright pink flowers are typically in bloom during July and August (Gleason and Cronquist, 1991). Slender marsh rose-pink is currently known from 12 occurrences and historically known from multiple additional occurrences in Virginia's coastal plain and mountain regions.

According to review by a DCR botanist, there is also potential for Cuthbert's Turtlehead (*Chelone cuthbertii*, G3/S2/NL/NL) to occur in the project area if suitable habitat exists on site. Cuthbert's Turtlehead, a showy, perennial herb, grows in acid water seeps. It has also been documented in such disturbed areas as powerline rights-of-way. Cuthbert turtlehead has bright magenta flowers resembling the shape of a turtle's head that bloom from July through September (Radford et al., 1968) and can grow to be four feet tall (Ludwig, 1996). Due to its restricted distribution, Cuthbert turtlehead is threatened by even the smallest elimination of wetland habitat within its range. Drainage and timbering within wetlands have eliminated much essential habitat. Cuthbert turtlehead is currently known from Virginia's coastal plain, piedmont and Blue Ridge regions, some of those occurrences historical. Surveys for this species should be conducted during the flowering period, with late August – September being optimal in Virginia.

In addition, according to review by a DCR biologist, there is evidence of isolated ponds on site that could provide habitat for Barking Treefrog (*Hyla gratiosa*, G5/S2S3/NL/NL), Oak Toad (*Anaxyrus quercicus*, G5/S2/NL/NL), and Mabee's Salamander (*Ambystoma mabeei*, G4/S1S2/NL/LT).

The Barking Treefrog ranges through the coastal plain from North Carolina to Florida and west to Mississippi and eastern Louisiana (NatureServe, 2009). There are disjunct populations in Delaware, Maryland, Kentucky and Tennessee, and southeastern Virginia (NatureServe, 2009). Across its range, it inhabits areas near shallow ponds in pine savannas and in low wet woods and swamps (Martof et al., 1980). In Virginia, this species breeds in fish-free vernal ponds (Pague & Young, 1991). When inactive during cold or dry seasons, they burrow under tree roots, vegetation, or in the soil; otherwise, this species is mostly arboreal and thus dependent on trees near the water (Pague & Young, 1991). Adult frogs feed on insects and other invertebrates; tadpoles consume primarily algae (VDGIF, 1993).

Major threats to the Barking treefrog include continued logging of native pine, destruction of breeding ponds, and over collecting (Pague & Young, 1991).

The Oak Toad ranges along the Coastal Plain from south Virginia south and west to Louisiana (NatureServe, 2009). Typically growing to a length of 19 to 33 mm, the oak toad has been documented in Virginia's coastal plain, south of the James River (Martof et al., 1980). This species inhabits southern pine woods where it hides under all manner of objects. Unlike most other toads, the Oak toad is active by day. Breeding occurs in shallow pools, ditches, cypress ponds and flatwood ponds from April to October, depending on the arrival of warm, heavy rains (Conant, 1991).

The Oak toad populations do not fare well in habitats within urban or suburban settings; however it might persist in some agricultural areas (Bartlett and Bartlett, 1999). It is threatened by increasing monocultures of loblolly pine and the continuous draining of remaining natural pine woodlands (Mitchell, 1991).

Mabee's Salamander inhabits isolated depression wetlands in pine woods, open fields, lowland deciduous forests (Behler and King, 1979), pine savannas, low wet woods and swamps (Martof et. al., 1980). They breed in fish free vernal ponds (Pague & Mitchell, 1991) where the eggs are attached to submerged plant material or bottom debris (Behler and King, 1979). This species migrates up to a few hundred meters between their breeding and nonbreeding habitats, although, some adults will remain at the breeding site after the pond dries. Concurrent with heavy winter and springs rains, mass movements of adults to the breeding ponds have been documented (TNC et. al., 1999). Adults and juveniles spend most of the year underground in the upland habitats, but return to the ponds to breed in February or March (VDGIF, 1994). Because of the amphibious life cycle, the presence of sufficient, suitable terrestrial and aquatic habitat is critical (VDGIF, 1994).

Threats to Mabee's salamander include habitat loss, habitat fragmentation, and habitat contamination (VDGIF, 1994). The wetland habitats can be degraded or destroyed by filling, draining, ditching, and changing land use in the groundwater recharge zones or by contamination with pesticides or other chemicals. The upland habitats can be compromised by residential, commercial and industrial development, incompatible forest management practices, and other changes. Loss of suitable continuous terrestrial habitat between breeding sites may fragment populations and lead to extirpation through such factors as environmental perturbations, disease, and inbreeding (VDGIF, 1994). Please note that this species is currently classified as threatened by the Virginia Department of Wildlife Resources (VDWR).

Due to the potential for this site to support additional populations of natural heritage resources, DCR recommends an inventory for rare plants in the study areas, including but not limited to red milkweed, sandhills bog lily, slender marsh-pink, and Cuthbert's turtlehead. DCR also recommends a survey for isolated ponds that would provide habitat for the barking treefrog, oak toad and Mabee's salamander. With the survey results we can more accurately evaluate potential impacts to natural heritage resources and offer specific protection recommendations for minimizing impacts to the documented resources.

DCR-Division of Natural Heritage biologists are qualified to conduct inventories for rare, threatened, and endangered species. Please contact Anne Chazal, Natural Heritage Chief Biologist, at anne.chazal@dcr.virginia.gov or 804-786-9014 to discuss availability and rates for field work.

Due to the legal status of Mabee's salamander, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDWR, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

Furthermore, according to predicted suitable habitat modeling, there is potential for Eastern big-eared bat (*Corynorhinus rafinesquii macrotis*, G3G4T3/S2/NL/LE) to occur in the project area if suitable habitat exists on site. The Eastern big-eared bat is named for its enormous ears twice the length of its head, is extremely rare in Virginia and is currently known only from the southeastern portion of the state. Although widespread throughout the southeast, they are never found in large numbers. These bats roost singly or in small groups in hollow trees or abandoned buildings. They forage only after dark primarily in mature forests of both upland and lowland areas along permanent bodies of water (NatureServe, 2009). The details of this bat's feeding behavior and much of its natural history remain a mystery. Lack of information regarding the ecology of the Eastern big-eared bat, and their sensitivity to disturbance, make them particularly vulnerable to destruction of roost sites and feeding areas where their presence goes undetected (Handley and Schwab 1991, Harvey 1992).

Threats to this species include forest destruction, particularly hollow tree removal, decreasing availability of abandoned buildings, and possibly, insecticides. Please note that this species is currently classified as endangered by the Virginia Department of Wildlife Resources (VDWR). DCR recommends avoiding tree removal in bottomland habitats within and along Joseph Swamp and its tributaries as well as assessing any large potential

roost trees and/or abandoned structures on the property for bat presence/absence. DCR also recommends coordination with DWR, Virginia's regulatory authority for the protection of this species, if removal of potential roost habitat for the Eastern big-eared bat becomes necessary to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

Aquatic Resources

According to the information in our files, the Neblitts Millpond - Joseph Swamp - Dobie Swamp Stream Conservation Site (SCS) is located within the project area. SCSs encompass stream/river reaches, waterbodies, and terrestrial contributing areas containing or associated with aquatic or semi-aquatic resources, including upstream and downstream reaches and tributaries up to 3-km stream distance from the aquatic resources. The size and dimensions of an SCS are based on the hydrology of the waterway and surrounding landscape, taking into consideration dam locations and whether the waterway is tidal. SCSs are also given a biodiversity significance ranking (B-rank) based on the rarity, quality, and number of element occurrences they contain. The Neblitts Millpond - Joseph Swamp - Dobie Swamp SCS has been given a B-rank of B3, which represents a site of high significance. The natural heritage resources associated with this SCS are:

<i>Aquatic Natural Community</i>	SC-Nottoway Third Order Stream	G2G3/S2S3/NL/NL
<i>Enneacanthus chaetodon</i>	Blackbanded Sunfish	G3G4/S1/NL/LE

The documented Aquatic Natural Community is based on Virginia Commonwealth University's **INSTAR** (*Interactive Stream Assessment Resource*) database which includes over 2,000 aquatic (stream and river) collections statewide for fish and macroinvertebrate. These data represent fish and macroinvertebrate assemblages, instream habitat, and stream health assessments. The associated Aquatic Natural Community is significant on multiple levels. First, this stream is a grade B+ per the VCU-Center for Environmental Sciences (CES), indicating its relative regional significance, considering its aquatic community composition and the present-day conditions of other streams in the region. This stream reach also holds a "Healthy" stream designation per the INSTAR Virtual Stream Assessment (VSS) score. This score assesses the similarity of this stream to ideal stream conditions of biology and habitat for this region. Lastly, this stream contributes to high Biological Integrity at the watershed level (6th order) based on number of native/non-native, pollution-tolerant/intolerant and rare, threatened or endangered fish and macroinvertebrate species present.

Threats to the significant Aquatic Natural Community and the surrounding watershed include water quality degradation related to point and non-point pollution, water withdrawal and introduction of non-native species.

The Blackbanded Sunfish is known only from the Chowan River Basin; however, it is known from many Atlantic Slope drainages from New Jersey to central Florida and from some Gulf Coast drainages in Florida and Georgia (NatureServe, 2009). This freshwater fish inhabits shallow, densely vegetated ponds, swamps, and pools (Jenkins & Burkhead, 1993) over a sand or mud substrate (NatureServe, 2009). This species lays its eggs on nests made in a weed bed on the substrate or in a hollow made by plants (Cooper, 1983; Burkhead and Jenkins, 1994). Threats to the Blackbanded sunfish include drying of ponds and swamps and contamination of the waters by pesticides (NatureServe, 2009). There are also concerns that collection of individuals for the aquaria could place populations of this species in jeopardy (Burkhead and Jenkins, 1991). Please note that this species is currently listed as endangered by the Virginia Department of Wildlife Resources (VDWR).

In addition, Cabin Branch, Dobie Swamp, Joseph Swamp, and an Unnamed trib. of Joseph Swamp have been designated by the VDWR as a "Threatened and Endangered Species Water" for the blackbanded sunfish.

To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations, establishment/enhancement of riparian buffers with native plant species and maintaining natural stream flow.

Due to the legal status of the Blackbanded sunfish, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDWR, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

Additional Comments

The proposed project will impact multiple Ecological Cores (C1, C2, C3, C4 and C5) as identified in the Virginia Natural Landscape Assessment (<https://www.dcr.virginia.gov/natural-heritage/vaconvisynla>). Mapped cores in the project area can be viewed via the Virginia Natural Heritage Data Explorer, available here: <http://vanhde.org/content/map>.

Ecological Cores are areas of at least 100 acres of continuous interior, natural cover that provide habitat for a wide range of species, from interior-dependent forest species to habitat generalists, as well as species that utilize marsh, dune, and beach habitats. Interior core areas begin 100 meters inside core edges and continue to the deepest parts of cores. Cores also provide the natural, economic, and quality of life benefits of open space, recreation, thermal moderation, water quality (including drinking water recharge and protection, and erosion prevention), and air quality (including sequestration of carbon, absorption of gaseous pollutants, and production of oxygen). Cores are ranked from C1 to C5 (C5 being the least significant) using nine prioritization criteria, including the habitats of natural heritage resources they contain.

Impacts to cores occur when their natural cover is partially or completely converted permanently to developed land uses. Habitat conversion to development causes reductions in ecosystem processes, native biodiversity, and habitat quality due to habitat loss; less viable plant and animal populations; increased predation; and increased introduction and establishment of invasive species.

DCR recommends avoidance of impacts to cores. When avoidance cannot be achieved, DCR recommends minimizing the area of impacts overall and concentrating the impacted area at the edges of cores, so that the most interior remains intact.

The proposed project will impact multiple cores with very high (C2) to outstanding (C1) ecological integrity. Further investigation of these impacts is recommended and DCR-DNH can conduct a formal impact analysis upon request. This analysis would estimate direct impacts to cores and habitat fragments and indirect impacts to cores. The final products of this analysis would include an estimate of the total impact of the project in terms of acres. For more information about the analysis and service charges, please contact Joe Weber, DCR Chief of Biodiversity Information and Conservation Tools at Joseph.Weber@dcr.virginia.gov.

DCR supports the planting of Virginia native pollinator plant species that bloom throughout the spring, summer, and fall to maximize benefits to native pollinators in the buffer areas and under the panels as indicated in the Conditional Use Permit (CUP) application submitted to Sussex County dated June 5, 2024. For screening zones outside the perimeter fencing, DCR supports the use of native species appropriate for the region. Guidance on plant species can be found here: <https://www.dcr.virginia.gov/natural-heritage/native-plants-finder>. In addition, Virginia native species alternatives to the non-native species listed in the Virginia Erosion and Sediment Control Handbook (Third Edition 1992), can be found in the 2017 addendum titled "Native versus Invasive Plant Species", here: <https://www.deq.virginia.gov/home/showpublisheddocument?id=2466>. Page 3 of the addendum provides a list of native alternatives for non-natives commonly used for site stabilization including native cover crop species (i.e., Virginia wildrye). DCR also recommends the development of an invasive species management plan for the project.

DCR has reviewed the planting list provided in the CUP application using the Virginia Native Plant Finder. DCR recommends including at least three native grass species in the VA Solar Pollinator 3' Mix indicated for under the panels as native grass species provide important structure and habitat for pollinators. Additionally, DCR recommends redesigning the mix so that the dominant three species are Virginia natives, as Blue Gramma Bad

River is not considered a native species according to the Native Plant Finder. DCR supports the use of VA ecotypes when available, as found in the Native Pollinator Buffer Mix.

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the DCR, DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species. The current activity will not affect any documented state-listed plants or insects.

There are no State Natural Area Preserves under DCR's jurisdiction in the project vicinity.

New and updated information is continually added to Biotics. Please re-submit a completed order form and project map for an update on this natural heritage information if the scope of the project changes and/or six months has passed before it is utilized.

The Virginia Department of Wildlife Resources (VDWR) maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters that may contain information not documented in this letter. Their database may be accessed <https://services.dwr.virginia.gov/fwis/> or contact Hannah Schul at Hannah.Schul@dwr.virginia.gov.

Should you have any questions or concerns, feel free to contact me at 804-625-3979. Thank you for the opportunity to comment on this project.

Sincerely,



Nicki Gustafson
Natural Heritage Project Review Assistant

Cc: Hannah Schul, VDWR,
Susan Tripp, DEQ

Literature Cited

- Bartlett, R. D., and P. P. Bartlett. 1999. A field guide to Florida reptiles and amphibians. Gulf Publishing Company, Houston, Texas. xvi + 278 pp.
- Behler, J.L. and F.W. King. 1979. The Audubon Society field guide to North American reptiles and amphibians. Alfred A. Knopf, New York. p. 719.
- Burkhead, N. M., and R. E. Jenkins. 1991. Fishes. Pages 321-409 in K. Terwilliger (coordinator). Virginia's Endangered Species: Proceedings of a Symposium. McDonald and Woodward Publishing Company, Blacksburg, Virginia.
- Conant, Roger and Collins, Joseph T. 1991. A Field Guide to Reptiles and Amphibians. Houghton Mifflin Company, Boston, Massachusetts. p. 312-313.
- Cooper, E. L. 1983. Fishes of Pennsylvania and the northeastern United States. Pennsylvania State Univ. Press, University Park. p. 243
- Department of Conservation and Recreation. 1989. A Natural Heritage Resources Inventory and Biological Assessment of the Elko Tract, Henrico County, Virginia. Prepared by the Department of Conservation and Recreation's Division of Natural Heritage. 7 November 1989.
- Gleason H.A. and A. Cronquist. 1991. Manual of Vascular Plants of Northeastern United States and Adjacent Canada. Second Edition. The New York Botanical Gardens. N.Y. p. 387.
- Harvill, A.M., Jr. T.R. Bradley, C.E. Stevens, T.F. Wieboldt, D.M.E. Ware, and D.W. Ogle. 1986. Atlas of the Virginia Flora, 2nd ed. Virginia Botanical Associates, Farmville, VA.
- Jenkins, R.E., and N.M. Burkhead. 1993. Freshwater fishes of Virginia. American Fisheries Society, Bethesda, Maryland.
- Ludwig, J. Christopher. 1996. Personal communication regarding *Sabatia campanulate* and *Chelone cuthbertii*. Virginia Department of Conservation and Recreation, Division of Natural Heritage.
- Martof, B. S., W. M. Palmer, J. R. Bailey, and J. R. Harrison, III. 1980. Amphibians and reptiles of the Carolinas and Virginia. University of North Carolina Press, Chapel Hill, North Carolina. p. 108, p.120, p. 264.
- Mitchell, J. C. 1991. Amphibians and reptiles. Pages 411-76 in K. Terwilliger (coordinator). Virginia's Endangered Species: Proceedings of a Symposium. McDonald and Woodward Publishing Company, Blacksburg, Virginia.
- NatureServe. 2009. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available <http://www.natureserve.org/explorer>. (Accessed: March 18 & 31, 2010, April 5 & 27, 2010).
- NatureServe. 2024. NatureServe Explorer: An online encyclopedia of life [web application]. Version 7.1. NatureServe, Arlington, Virginia. Available <http://www.natureserve.org/explorer>. (Accessed: August 2, 2024).
- Pague, C.A. and J.C. Mitchell. 1991. Mabee's salamander. In Virginia's Endangered Species: Proceedings of a Symposium. K. Terwilliger ed. The McDonald and Woodward Publishing Company, Blacksburg, Virginia. p. 427-429.
- Pague, C.A. and D.A. Young. 1991. Barking treefrog. In Virginia's Endangered Species: Proceedings of a Symposium. K. Terwilliger ed. The McDonald and Woodward Publishing Company, Blacksburg, Virginia. p. 424 - 426.

Radford, Albert E., Harry E. Ahles, and C. Ritchie Bell. 1968. *Manual of the Vascular Flora of the Carolinas*. The University of North Carolina Press, Chapel Hill.

The Nature Conservancy. 1996. *Biological and Conservation Data System*. Arlington, Virginia, USA.

The Nature Conservancy and The Network of Natural Heritage Programs and Conservation Data Centers. 1999. *Natural Heritage Conservation Databases*. Accessed through the Biosource web site project. The Nature Conservancy, Arlington, VA. (7/14/99).

VDGIF. 1993. Draft *Hyla gratiosa* Recovery Plan. Nongame and Endangered Species Program, Virginia Department of Game and Inland Fisheries, Richmond, VA.

VDGIF. 1994. Draft *Ambystoma mabeei*, Mabee's Salamander, Recovery Plan. Nongame and Endangered Species Program, Virginia Department of Game and Inland Fisheries, Richmond, VA.

Virginia Botanical Associates. 2024. Digital Atlas of the Virginia Flora (<http://www.vaplantatlas.org>). c/o Virginia Botanical Associates, Blacksburg. (Accessed: August 2, 2024)

Weakley, A.S. In prep. *Flora of the Carolina's and Virginia*. The Nature Conservancy, Southeastern Regional Office.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
23116 Meherin Road
COURTLAND, VIRGINIA 23837

July 31, 2024

Michael Poarch
Community Development
Sussex County
P. O. Box 1397
Sussex, VA 23884

**RE: Big Pine Solar-Conditional Use Permit
Tax Map #'s Assorted
Assorted Routes (Routes 602, 625, 626, etc.)
Sussex County**

The Residency has completed its review of the subject conditional use application dated May 2024, and received by the VDOT Land Development Office on July 12, 2024. We offer the following comments:

- 1) All entrances onto the public right of way must be designed in accordance with Appendix F of the VDOT Road Design Manual and will be reviewed during the site plan process.
- 2) Any utility installations within the public right of way will need to be owned and maintained by a public utility company registered with Virginia 811. A VDOT Land Use Permit will be required prior to installation.
- 3) VDOT will assist Sussex County in reviewing proposed Traffic Management Plans, roadway condition evaluations, and repair plans in accordance with the proposed CUP conditions. The proposed haul routes have no vehicular restrictions. VDOT cannot restrict vehicles along public roads. All traffic control must be in accordance with the latest revision to the Virginia Work Area Protection Manual.
- 4) As stated in the Traffic & Route Evaluation Study, routes 602, 625, & 625 are scheduled or have recently been paved. Care should be taken to prevent damage of these newly paved roads. If construction occurs during paving operations, coordination of the two projects is the responsibility of the developer.

If you have any questions, please contact me at 757-346-3084 or Jason.fowler@vdot.virginia.gov.

Jason C. Fowler
Land Use Engineer
Virginia Department of Transportation
Franklin Residency

Michael Poarch

From: David Conmy <dconmy@sussexcountyva.gov>
Sent: Tuesday, July 23, 2024 6:43 PM
To: Michael Poarch
Subject: Re: Big Pine Solar Conditional Use Permit Application- 1st submittal

Good evening Michael,

Here are my comments from economic development:

From an economic development perspective, the proposed use would generate additional local revenues for the County. Sussex County experiences elevated levels of local fiscal stress, so the additional revenue could help to alleviate this circumstance. The project's location does not appear to adversely affect the County's economic development interests with Sussex Green Enterprise Park. If approved, there could be an opportunity to promote the proximity of this solar farm to Sussex Green Enterprise Park as a marketing tool for attracting business investors to Sussex Green, many of whom seek renewable energy sources for their proposed facilities.

Best,
David

J. David Conmy
Deputy County Administrator & Economic Development Director
Sussex County
20135 Princeton Road
P.O. Box 1397
Sussex, Virginia 23884
office: (434) 246-4395
mobile: (434) 632-9766

"Rooted in the Past...Growing for the Future!"

From: Michael Poarch <mpoarch@sussexcountyva.gov>
Sent: Friday, July 12, 2024 12:40 PM
To: Fowler, Jason <jason.fowler@vdot.virginia.gov>; joshua.norris@vdot.virginia.gov <joshua.norris@vdot.virginia.gov>; Schul, Hannah (DWR) <Hannah.Schul@dwr.virginia.gov>; Bassett, Jay S. (DOF) <jay.bassett@dof.virginia.gov>; Nick Sheffield <nshellfield@sussexcountyva.gov>; Kirchen, Roger (DHR) <roger.kirchen@dhr.virginia.gov>; Hypes, Rene (DCR) <rene.hypes@dcr.virginia.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds Edwards <linds.edwards@bgllc.net>; Ernest Giles <egiles@susova.us>
Cc: Beverly Walkup <bwalkup@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; David Conmy <dconmy@sussexcountyva.gov>
Subject: Big Pine Solar Conditional Use Permit Application- 1st submittal

Good Afternoon,

I hope everyone is doing well. We received a conditional use permit application for Big Pine Solar. As part of the review, we wanted to gather initial feedback or comments from each respective agency and/or department.

Brief Description

The Conditional Use Permit application is for Big Pine Solar which proposes to develop a 150 megawatt solar facility. The project is located within the Newville area near Sussex State Prisons and the Waste Management Landfill.

Please see forward link below to access the documents for your review and reference. We would like all comments or feedbacks prior to August 5 if possible. If you have any issues accessing the link below, please let us know.

 [Conditional Use Permit Application Cover Letter w_ Check - Big Pine Solar LLC \(Sussex\) 1.pdf](#)

 [Narrative Exhibits 1.zip](#)

 [Project Option Documents 1.zip](#)

 [Signed CUP Application - Big Pine Sussex 1.pdf](#)

 [Use Permit Application Narrative \(Compiled\) - RWE Big Pine - 7.3.24 1.pdf](#)

Sincerely,

M. Poarch
County Planner
Sussex County Planning & Zoning Department

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Thursday, October 17, 2024 9:31 AM
To: Richard Douglas; Beverly Walkup
Subject: RWE Clean Energy- Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

I just wanted to thank you for following up on my request that you speak with Jeff Sharp in Georgia regarding his experience with RWE in his county in Georgia. I do appreciate that.

I understand from Jeff, just as I've told you in the past and my recent update, that he discussed the initial problems with their lack of cooperation and environmental damage they did to many landowners, but that recently they removed their prior crew and now have crews that seem to know what they are doing, although it's taken 9-10 months to get them moving in a positive manner. I did notify all of this recent positive movement since, unlike RWE, I always want to be transparent on the issues.

Of course, I'll be commenting accurately at the public hearing on their history on this, which still, in my respectful opinion, reflects the safety concerns our county would face if this project is somehow approved. That history directly relates their lack of safety history which is a factor in our Comprehensive Plan, so they are not in substantial compliance for that and many other remaining issues I have noted.

But thank you for following up with Jeff.

See you on the 24th.

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, October 15, 2024 10:48 AM
To: tmassenburg29@gmail.com; shands301@gmail.com; rogerking33@gmail.com; tort.kaso@rwe.com; kerrine.bryan@rwe.com; deltea@aol.com; rotttrucks@aol.com; jlebigfoot@gmail.com; Wayne Jones; Andy Mayes; Angela McPhaul; Beverly Walkup; Eric Fly; Frances Chambers; Franklin Cox; Kevin Bracy; Molly Dowless; 'Otto Wachsmann'; 'Rufus Tyler'; Shilton Ricks Butts
Subject: RWE- Georgia solar project.

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Unlike the experience with RWE we have seen, I want to be transparent about the information I have provided regarding RWE.

I followed up and spoke directly with Jeff Sharp, (the zoning director of Oglethorpe, Georgia) today to get an update.

He confirmed that the cease and desist order had been issued in January. That was issued as I've said due to extensive land damage to multiple landowners caused by RWE. Based on promises to remedy those problems, the order was lifted sometime later. But he told me after around April nothing seemed to be done to fix the problems- once again delays and lack of cooperation although the solar project was operating.

So he told me that he wrote RWE sometime in September (his best recollection- he was out in the field when I spoke to him) and warned them that another cease and desist order would be issued if, after 9 months, they didn't do what they had promised many months earlier.

So a few weeks ago, apparently RWE has fully replaced the operators and have plans with the new crew or new subs to completely overhaul their drainage systems and other repairs to address the problems. He said that RWE has admitted to liability on the damages. But in the interest of transparency, Jeff told me this new group seems to be much more cooperative and so far he is impressed. However, nothing yet has been done in following up on their plans since the overhaul of the crew a few weeks ago.

So while they may be operational, it's been 10 months now since the original damages were done, but maybe this new crew will do better.

And Jeff also told me that no one from our county has taken the time to call him and to discuss his concerns about RWE despite his invitation. I have repeatedly asked Mrs. Walkup to contact him - gave her his number in an email- and am concerned the county has not done their due diligence, as I have, in learning about the problems of RWE in Georgia. Certainly that is relevant, but maybe the county doesn't care and just wants to move forward to approve another Waverly cesspool. I sure hope not.

Thank you.
Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, October 14, 2024 6:09 PM
To: Richard Douglas; Beverly Walkup; Michael Poarch; Shilton Ricks Butts
Subject: Fwd: RWE Clean Energy - Big Pines Project
Attachments: MEMORANDUM- BIG PINES SOLAR.pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Trying again.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 14, 2024 at 5:49:21 PM EDT
To: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, sromine@williamsmullen.com, Shilton Ricks Butts <sricks@sussexcountyva.gov>, Michael Poarch <mpoarch@sussexcountyva.gov>, Tom Baicy <tbaicy@sussexcountyva.gov>
Subject: RWE Clean Energy - Big Pines Project

Being sent directly since I sometime get undelivered notices. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 14, 2024 at 5:47:07 PM EDT
To: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, tort.kaso@rwe.com, Kerrine.Bryan@rwe.com, deltea@aol.com, rotttrucks@aol.com, jlebigfoot@gmail.com, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler <rtyler@impassoc.org>
Subject: RWE Clean Energy - Big Pines Project

To All: attached please find a detailed memo I have prepared regarding the Big Pines solar project. I hope each of you will take the time to review this since I will

be presenting this at both the upcoming neighborhood meeting and public hearing on the CUP. This shows what RWE is really all about.

And I would ask the county clerk and Mrs. Walkup to make this memo part of the record in this matter.

Thank you.

Sent from my iPhone

COPPAHAUNK CITIZENS AGAINST SOLAR PROJECTS

MEMORANDUM IN SUPPORT OF DENIAL OF RWE CLEAN ENERGY (“RWE”) - BIG PINES -SOLAR PROJECT

LAWRENCE D. DIEHL, ESQ., PRESENTATION OUTLINE

NOTE: This Memorandum is not intended to provide legal advice, but reflects the reasons and opinions on why the RWE Clean Energy application should be denied.

1. THE PROJECT IS NOT IN SUBSTANTIAL COMPLIANCE WITH THE COMPREHENSIVE PLAN OF SUSSEX COUNTY.

The main goals and vision statement of the Comprehensive Plan of Sussex County (the “Plan”) (page II-13) states as follows:

“Sussex County seeks to maintain its rural character and natural beauty. The County is intent upon protecting its forest resources, agricultural lands, and natural environmental systems. . . protecting and preserving the natural environment and surface and groundwaters...”

As to the preservation of natural resources, Chapter VIII of the Plan relating to natural systems and environmental conditions, further states (page VIII-4):

“Forest and related wood products industries are a vital part of the economy and natural appeal of Sussex County. . . The value added to the economy of Sussex County by the forest industry is considerable.”

This priority and goals of rural preservation is again stated in the goals set forth relating to the Blackwater/Newville/Waverly/U.S. 460 Planning Area. Other than specific areas of possible development along Route 460 and other major roads, not relevant to the proposed location, the plan states as follows (page X-13):

“The remaining land within the planning area is shown for agricultural use, thus preserving the rural character of those areas not designated for future residential, commercial or industrial development... This planning area is expected to remain rural in nature with land reserved for agricultural use.”

*****This project intends to remove timber and the use of agricultural land in order to construct the solar farm. The destruction of this land is in DIRECT CONTRADICTION to the primary goals and centuries of the heritage and the preservation of the rural character of Sussex County. By being directly in contradiction to all stated goals, the plan clearly does not comply with being in “substantial compliance” with the Plan as is required for any CUP amendment.**

The importance of preserving timberlands and agricultural use of the lands in Sussex County was affirmed by David Conmy, the Economic Development Director of Sussex County himself- and we thank the county for recognizing the Plan goals of timber protection. Mr. Conmy stated and was quoted in a recent edition of the Sussex-Surry Dispatch regarding the opening and operation of Restoration Bioproducts, as follows. He stated:

“The county’s roots are in forestry and agriculture...We’re all super excited at utilizing wood products from our history, with Sussex’s origins in timber...”

To approve this solar farm is to ignore Mr. Conmy’s comments and is in direct contradiction to the clear priorities of our Comprehensive Plan. For that reason alone, this project should be denied- similar to the same reasoning RWE Clean Energy or related entities of RWE CUP applications for a solar farm in each location were soundly rejected in Prince George County and Mecklenburg County, Virginia. This Planning Commission and Board should follow the wise decisions of these neighboring counties in rejecting this plan.

- 2. RWE CLEAN ENERGY HAS NOT BEEN TRANSPARENT ABOUT THE FACTS OF ITS PLAN AND HAS ALOS**

OMITTED CRITICAL INFORMATION ADVERSE TO ITS PROPOSAL.

- A. **RWE MISREPRESENTED DISTANCE COMPLIANCES WITH THE SOLAR ORDINANCE.** From the beginning- both on its website and other public disseminated information, RWE has stated that their plan was “approximately” 3 miles from the Town of Waverly limits. Upon pressing them on the issue, they finally admitted their initial proposed distance was only 2.3 miles from the Town of Waverly. No reasonable person (except perhaps biased RWE employees) would ever think that 2.3 miles is “approximately” 3 miles. That’s absurd. That misrepresentation was clearly an attempt to try to pass this oversight by the public, leading one who read their proposal to reasonably think it complied. Yet, that clearly did not comply with the Solar Plan mandates of a 3-mile distance between any project and any town. Although they might have re-done the plan to conform, their deviousness in this reflect what will probably be their pattern in the future on misrepresenting accurate facts.
- B. **RWE MISREPRESENTED BY OMISSION THE NONCOMPLIANCE WITH THE SOLAR FARM DISTANCE REQUIREMENTS.** RWE further OMITTED from their Website or public information the original fact that the location of the project was within the 2-mile distance from not one, but two, of our other solar farms (Waverly Solar and Cabin Point Solar). That omission is misleading the public to think that it complied with the requirements of our solar ordinance. Even if now remedied- their deceitfulness by this critical omission again reflects on the integrity and transparency of RWE. How such a critical fact could have been omitted is beyond me.
- C. **RWE HAS OMITTED THE FACT THAT THERE WILL BE MORE EMPLOYEES LOSING THEIR JOBS THAN THE 3 THEY PROPOSE LONG TERM.** RWE claims there will be future employees to operate and monitor the solar project- implying this

project is great for adding employees to the area. They state 3. **What? But, they have omitted the real employment impact on the county. They omitted the loss of the workers performing timber services, agricultural works, truck drivers who no longer have cargo to transport, mill workers losing timber and the ripple affect that has. The loss is probably at least 15-20 employees or related service providers and probably more. How come that fact was not contained in their "facts" set forth in their information?** The county will be losing many employees currently employed in some capacity on this site who will have to relocate, impacting on the loss of county personal property taxes on auto, real estate and other financial impacts such as eating meals and shopping locally, which will result from the much greater loss of employees. **Their complete omission of this fact again reflects on the lack of transparency of this company.**

- D. RWE HAS FAILED TO ACCURATELY DISCLOSE THAT ANY PROPOSED MONETARY BENEFITS TO THE COUNTY, ARE LEGALLY IRRELEVANT AND IMPROPER CONSIDERATIONS FOR THE APPROVAL OF A ZONING OR CUP AMENDMENT. The following is not intended to be legal advice, but merely a summary of the law as I read it and which is clear if you read the statutes.** Virginia law is clear that any zoning or CUP amendment approval must ONLY be based on those factors set forth in the relevant CUP statutes. Those factors are limited to various matters relating solely to land use, environmental impacts, rural heritage, safety precautions, etc. **Nothing permits the Planning Commission or Board to consider, for those purposes, any consideration of any future financial benefits, whether it be property or real estate taxes or otherwise. It simply cannot be considered. Period- that is the law.**

So, if any Planning Commissioner or Board member were to say at the public hearing, that this project needs to be passed because of the financial needs of the County- and even assuming those needs are real- if any approval of the project was done with even part of the rationale being financial, it is likely. In my opinion, such approval would be reversed as

being arbitrary and not in compliance with the factors that CAN be considered.

Further, if during the public comments period, any citizen or group appears and says we need this project because Sussex County needs the income, that again is not a permissible factor, and should be totally ignored and rejected. I don't know how much clearer I can be on this issue.

3. THE CUP APPLICATION SHOULD BE DENIED BASED ON THERE BEING NO SITING AGREEMENT ENTERED INTO BETWEEN RWE AND SUSSEX COUNTY AT THIS TIME. ONLY THE CUP VOTE IS NOW PENDING.

Section 15.2-2316.9(D) states as follows:

“D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use proposals for a solar project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.”

What does this mean? It means the Board can consider the fact that, at this time, since there is no siting agreement entered into yet and no siting agreement has been proposed to the public, voted on or had a public hearing on, the Board can consider the lack of such an agreement as a reason, along with others, to deny the application. Whether the siting agreement issue has been deferred until action on the CUP is first done is not a factor. That doesn't matter- either there is or there isn't such an agreement and the fact is- as of now- there is no such agreement. **The statute is clear- and since there is no such agreement NOW, in voting to this land use proposal, the Board can consider the fact that, for any reason, there is no siting agreement. The statute above is clear on that. This is not intended as legal advice- merely stating what the statute says and you can read.**

4. RWE HAS A TERRIBLE HISTORY OF OPERATING SOLAR FARMS IN AN ENVIRONMENTALLY SAFE MANNER. THEY HAVE A HISTORY OF RUINING LANDS, GETTING A DEQ ORDER, AND A LACK OF COOPERATION IN REMEDYING THEIR RUINING OF LANDS IN GEORGIA.

A. I have previously provided to you a summary of the problems of RWE in Georgia- a cease and desist order entered in January, 2024, allegation confirmed directly to me by Jeff Sharp, their own zoning director and one of the Commissioners, that RWE has ruined the land of many owners, have not been cooperative in responding to these severe environmental problems, and 10 months later they still have not fully complied with what is needed to remedy these environmental problems.

And in furtherance of the lack of transparency by RWE on many issues, this is to remind you that at the neighborhood meeting of RWE on September 26, 2024, when I asked about the status of the order, the RWE representative dodged the answer twice, stating they were working with the county on the issues. When I finally pressed for an answer to my question, and not the answer she wanted to avoid, she admitted the order was still in effect limiting RWE to merely do what is needed to get the damage repaired. But then she made it even worse by stating the order was only temporary.

Temporary for 10 months since January, 2024? Come on – that’s another attempt to de minimize serious damages which I confirmed the very next day when I called Mr. Sharp directly so I could get all the facts to report to you. This reflects on who RWE really is- we don’t need a company in our county that can’t give a straight answer and admit the extensive damages they caused on another project.

B. I also provided previously a copy of the **DEQ order entered just this past August arising out of their non-compliance in Wythe County, Virginia, with a voluminous list of environmental issues. And, just like**

our mess here with the Waverly Solar project- RWE was FINED OVER \$24,000.00.

If you read the lengthy order I previously sent to all, it reads just like many of the same issues that Sussex has experienced with Equinox- page after page and an extensive list of violations. **So, I ask, do we really want to risk having another company with a bad track record of meeting environmental issues? Sure- they will try to sell you the Brooklyn Bridge and promise the world,** but I suggest facts, actions and history speak louder than words. We heard the same facts from Equinox and look where that got the county and down the very street from where I live. It's a cesspool. **We don't need a Waverly Solar II and from the experience of RWE cited above, I promise you we will have another cesspool in Sussex to worry about.**

- C. RWE or related entities were also denied a solar farm proposal in both Mecklenburg Counties and Prince George Counties- our neighbors.** Why? From the reported summaries anyone can look up on Goggle- the same reasons this should be denied- ruining our rural heritage, inconsistent with those county's Comprehensive Plans, concerns about how RWE operates, etc. We need to follow the wisdom of these neighbors in rejecting RWE.

SUMMARY: RWE KEEPS SAYING OVER AND OVER THAT THEY ARE GREAT- THEY HAVE OVER 125 YEARS OF EXPERIENCE, 20,000 INTERNATIONAL WORKERS AND 2,000 USA WORKERS, OR SO. SO, LET ME ASK ALL OF YOU THIS- HOW COME AFTER 125 YEARS AND ALL THESE WORKERS RWE STILL DOESN'T KNOW HOW TO OPERATE A SAFE SOLAR FARM? WILL THEY EVER- MAYBE IN ANOTHER 125 YEARS?

5. PROPERTY VALUES WILL DECREASE WITH ADDITIONAL SOLAR FARMS IN SUSSEX COUNTY.

RWE will deny this and say they have all these studies all over the place that say there is no proof that solar farms will reduce

residential or commercial land values. But here are the facts on those studies:

Who paid for these self-serving studies- solar industries?

Not one study has included Sussex County, Virginia or anywhere near this part of Virginia. They have not one bit of any data to prove that real estate values will not be impacted.

Did their studies have the same demographics?

Did they have rural counties with other solar farms that have had a negative environmental impact on our county's natural resources like Waverly Solar?

There is simply no comparison to their studies and the real world of values here- and how do we know?

I have spoken with at least one local realtor who would know the impact. An estimate of 10-20% reduction in the FMV of Sussex residence is the real-world impact. I would trust a local realtor any day who knows our county over all these glossy biased studies, charts and data that reflects nothing about our County.

6. RWE'S INTEGRITY CANNOT BE TRUSTED- THIS IS SHOWN BY THEIR PARENT COMPANY'S IRRESPONSIBLE ACTIONS IN UK LITIGATION- THIS REFLECTS ON RWE AS AN ENTIRE ENTITY.

I have previously investigated the parent company of RWE, RWE GROUP. Most of the stockholders of that company are foreign listed- Qatar, UK, Germany, Ireland, etc.

As I previously found out- RWE Group is subject to many lawsuits in the UK claiming lung damages caused by asbestos by projects now owned by RWE Group. It is reported that RWE Group had the gall to file with that court a

memo saying that there is no scientific proof of a relationship between asbestos and lung damage. What? What a voodoo science report and I assume the authors probably also think the world is flat. So, if RWE Group has no integrity by filing such junk, how can we be assured that RWE here will not follow suit? And to make it worse- **RWE Group has been accused by delaying, delaying and delaying the trials of these claims so that the claimants die and RWE Group doesn't have to pay the dead claimants anything. Yeah- a company with real integrity.**

THIS REFLECTS WHAT RWE IS ALL ABOUT AND FOR ALL THE REASONS ABOVE- I RESPECTFULLY ASK THAT RWE'S CUP SOLAR PROJECT APPLICATION BE CATEGORICALLY DENIED.

Beverly Walkup

From: Jeff Gore <Jeff@heftywiley.com>
Sent: Friday, October 11, 2024 4:06 PM
To: Lawrence Diehl; Danielle Powell
Cc: sromine@williamsmullen.com; Tory.Kaso@rwe.com; Beverly Walkup; Richard Douglas; Shilton Ricks Butts; kerrine.bryan@rwe.com; Molly Dowless; Eric Fly; phyllistolliver2@gmail.com; Thomas Baicy; Steve White; Wayne Jones; rotttrucks@aol.com; 'Rufus Tyler'; tmassenburg29@gmail.com; Kevin Bracy; shands301@gmail.com; deltea@aol.com; Frances Chambers; Franklin Cox; Andy Mayes; Angela McPhaul
Subject: RE: Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Larry,

I assume you are referring to the Sussex County Zoning ordinance provision, Chapter 34, Article VII, Section 34-908(b)(5), (since the 16.1-404(b)(5) "statute" you cite does not exist in the Code of Virginia). The zoning ordinance requires applicants of certain utility-scale solar energy and battery storage facilities to provide the zoning administrator a summary of any input received from members of the public at the neighborhood meeting. The zoning ordinance does not include a mandatory timeframe within which the applicant is required to provide the meeting summary to the county. Staff has requested the applicant to provide its neighborhood meeting summary. As soon as it is received, I'm sure staff will post it on the county website, and provide it to the planning commission, the board of supervisors, and to you or anyone else who requests it.

Regarding whether the neighborhood meeting summary is being provided far enough in advance of the public hearing for it to be considered, it is still nearly two weeks before the public hearing. If the applicant does not provide the neighborhood meeting summary in advance of the public hearing, or at any other point in the process, then the county can certainly take that into account as the application is considered.

As you know, the advertised public hearing will be the opportunity for members of the public to present views on the proposed project, which is the statutory process required by the Code of Virginia. As stated in the public notice, individuals may also submit their written comments ahead of the public hearing for the commission and board to consider. All emails and other written comments submitted by the public will be included in the record.

You previously agreed not to contact our client directly with legal advice. I certainly respect your right as a member of the public (and a member of the Bar for that matter) to present your views on public policy matters pending before the county, but I have serious concerns with you directly and continually providing our client with your legal analysis and conclusions. I hope that you will honor your previous commitment.

Much appreciated,

Jeff

Jeffrey S. Gore
100 West Franklin St., Suite 300
Richmond, Virginia 23220
804.780.3143 (office)
804.212.9473 (mobile)

HEFTY WILEY & GORE, P.C.
ATTORNEYS AT LAW

This e-mail and any attachments may contain confidential and/or protected legal information, communications protected by the attorney/client privilege, items or information protected by the attorney work product doctrine, information related to pending litigation or prepared in anticipation of litigation, and/or confidential settlement negotiations. The receipt of such information or items by any unauthorized person does not constitute a waiver of those privileges.

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

Sent: Thursday, October 10, 2024 5:03 PM

To: Jeff Gore <Jeff@heftywiley.com>; Danielle Powell <Danielle@heftywiley.com>

Cc: sromine@williamsmullen.com; Tory.Kaso@rwe.com; Beverly Walkup

<bwalkup@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; Shilton

Ricks Butts <sricks@sussexcountyva.gov>; kerrine.bryan@rwe.com; Molly Dowless

<brickhill1747@gmail.com>; Eric Fly <cefly@icloud.com>; phyllistolliver2@gmail.com; Tom Baicy

<tbaicy@sussexcountyva.gov>; Steve White <steve.white@dbhds.virginia.gov>; Wayne Jones

<jonesfamily2@msn.com>; rotttrucks@aol.com; Rufus Tyler <rt Tyler@impassoc.org>;

tmassenburg29@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; shands301@gmail.com;

deltea@aol.com; Frances Chambers <fchambers@nsacademy.org>; Franklin Cox

<Fcox59@gmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; Angela

McPhaul <amcphaul@town.waverlyva.us>

Subject: Re: Big Pines

Jeff- also sending this to you. The reason they need to file their required report right after the meeting is so it can be promptly reviewed by those who attended the neighborhood meeting to make sure it is complete and accurate. To delay utilities as Kerrine proposes or to combine the required filing leaves inadequate time to respond so that the planning dept. can have adequate time to review the input of citizens at the neighborhood meetings. By delaying their first report, that isn't what the statute says, but more practically, leaves little time for any further report to be filed, reviewed by citizens, responded to by the citizens who attended for accuracy, and leaving time for the planning department to consider timely all complete input for their recommendation which is what the statute appears to intend.

But with another neighborhood hearing set for Oct. 16, and a CUP public hearing set for October 24th - only 8 days later, I can't see how that leaves time to prepare their report, file it, give citizens adequate time to review and respond for accuracy, and time to consider all this by the planning department for a recommendation-when? A day or two before the hearing? Certainly

that is not an adequate or reasonable time for our county citizens to prepare for any public hearing without knowing their recommendations as far in advance as is reasonable time before the hearing.

So, RWEs delay on complying with the law seems to jam us into a position of not having enough time for full input and consideration of that input by the county- as intended by the statute - prior to the current date of the hearing on the 24th. Their strategy of delay - which is what they are doing-is simply unfair. Don't you agree? Help!!!

Sent from my iPhone

> On Oct 10, 2024, at 4:23 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

>

> That not what the statute says- too late. It says it is to be filed after the meeting- not delayed until after another meeting You've not complied and I'll leave it at that. But if you do file it - I expect it to be fully accurate by including every single point we discussed- if not complete- that will not comply.

>

> Sent from my iPhone

>

>> On Oct 10, 2024, at 3:54 PM, Kerrine.Bryan@rwe.com wrote:

>>

>> -NOT ENCRYPTED-

>>

>> Good Afternoon Mr Diehl,

>>

>> We will have a second neighborhood meeting on October 16th and will combine the feedback from both meetings into one report to submit to the county.

>>

>> Regards

>>

>> Kerrine Bryan

>> Senior Manager, Utility Scale Development – East

>>

>> RWE Clean Energy

>> 100 Summit Lake Drive, Valhalla, NY 10595

>> Tel.: +1 (872) 335-6176

>> Email: kerrine.bryan@rwe.com

>> rwecleanenergy.com

>>

>> -----Original Message-----

>> From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

>> Sent: Thursday, October 10, 2024 2:16 PM

>> To: Bryan, Kerrine <Kerrine.Bryan@rwe.com>; Beverly Walkup

>> <bwalkup@sussexcountyva.gov>; Michael Poarch

>> <mpoarch@sussexcountyva.gov>; Richard Douglas

>> <rdouglas@sussexcountyva.gov>; Shilton Ricks Butts

>> <sricks@sussexcountyva.gov>

>> Cc: sromine@williamsmullen.com; Andy Mayes
>> <amayes@commonwealthenvironmental.com>; Molly Dowless
>> <brickhill1747@gmail.com>; rogerking33@gmail.com; rotttrucks@aol.com;
>> Rufus Tyler <rtyler@impassoc.org>; phyllistolliver2@gmail.com;
>> tmassenburg29@gmail.com; Tom Baicy <tbaicy@sussexcountyva.gov>; Eric
>> Fly <cefly@icloud.com>; Steve White <steve.white@dbhds.virginia.gov>;
>> Wayne Jones <jonesfamily2@msn.com>; shands301@gmail.com;
>> deltea@aol.com; Angela McPhaul <amcphaul@town.waverlyva.us>; Franklin
>> Cox <Fcox59@gmail.com>; jlebigfoot@gmail.com; Otto Wachsmann
>> <owachsmann@yahoo.com>; Kevin Bracy <bornajunker@hotmail.com>
>> Subject: [EXT] Re: Big Pines

>>
>> ****EXTERNAL SENDER**:**

>> Do not click links, open attachments or enter your ID/Password unless you recognize the sender and certain the content is safe. If anything appears suspicious, report it. Consider the following before taking action: Were you expecting this email? Can you verify the sender? Are the grammar and spelling correct? Does the content or request make sense?

>>
>> ****EXTERNER ABSENDER**:**

>> Klicken Sie nicht auf Links, öffnen Sie keine Anhänge und geben Sie Ihre ID/Ihr Kennwort nur dann ein, wenn Sie den Absender erkennen und sicher sind, dass der Inhalt sicher ist. Wenn Ihnen etwas verdächtig vorkommt, melden Sie es. Beachten Sie Folgendes, bevor Sie Maßnahmen ergreifen: Hatten Sie diese E-Mail erwartet? Können Sie den Absender verifizieren? Sind Grammatik und Rechtschreibung korrekt? Ergibt der Inhalt oder die Aufforderung einen Sinn?

>> Will someone please let me know if the required report has been filed and get me a copy of this asap. I really need this asap to make sure the county has the input of the comments made at the neighborhood meeting since those comments are much more lengthy and detailed than the 2 minutes given for comments to individual citizens at public hearings and, in my case, the 5 minutes I get for my group.

>> I don't see how our planning department can make any recommendations on the application without the full input of all as evidenced by the required summary. Without that report, those that made comments are being denied their input which report is required by statute, and by denying that input, denying them their due process of the citizen input the county must consider in evaluating this application.

>> So can someone please let me know the status of this, the date filed if it was, and if the report was filed, please respond to my FOIA request which, so far, has not been responded to, for the report or copies of any communications between the county and RWE Clean Energy regarding the required report. Without this input, I fail to see how this application can move by the Planning Department forward since all required input is needed to the county so a full evaluation based on citizens input can be made. Without this, the statute has not been met and the info to the county is incomplete and not ready to be acted upon. If this requires a delay of the October 24th hearing, so be it.

>> Thank you.

>> Sent from my iPhone

>>

>>>> On Oct 10, 2024, at 11:01 AM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

>>>

>>> Mrs. Bryan: I'm trying to get a copy of the statutory required summary of the comments made by those attending at the last neighborhood meeting on Sept. 26th which is required to be filed with the county. This is per 16.1-404(b)(5).

>>>

>>> Would you please provide me with a copy of your filed summary report asap so I can make sure it accurately includes all of my comments which we discussed. Thank you and time is of the essence.

>>>

>>> Sent from my iPhone

>> ****WARNING****

>> This email originated from outside of the Barnes & Diehl email network.

>> **DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS** unless you

>> recognize the sender, solicited the information and know the content is safe.

>> **NEVER** give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Thursday, October 10, 2024 4:23 PM
To: Kerrine.Bryan@rwe.com
Cc: sromine@williamsmullen.com; Tory.Kaso@rwe.com; Beverly Walkup; Richard Douglas; Shilton Ricks Butts
Subject: Re: Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

That not what the statute says- too late. It says it is to be filed after the meeting- not delayed until after another meeting. You've not complied and I'll leave it at that. But if you do file it - I expect it to be fully accurate by including every single point we discussed- if not complete- that will not comply.

Sent from my iPhone

> On Oct 10, 2024, at 3:54 PM, Kerrine.Bryan@rwe.com wrote:

>

> -NOT ENCRYPTED-

>

> Good Afternoon Mr Diehl,

>

> We will have a second neighborhood meeting on October 16th and will combine the feedback from both meetings into one report to submit to the county.

>

> Regards

>

> Kerrine Bryan

> Senior Manager, Utility Scale Development – East

>

> RWE Clean Energy

> 100 Summit Lake Drive, Valhalla, NY 10595

> Tel.: +1 (872) 335-6176

> Email: kerrine.bryan@rwe.com

> rwecleanenergy.com

>

> -----Original Message-----

> From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

> Sent: Thursday, October 10, 2024 2:16 PM

> To: Bryan, Kerrine <Kerrine.Bryan@rwe.com>; Beverly Walkup

> <bwalkup@sussexcountyva.gov>; Michael Poarch

> <mpoarch@sussexcountyva.gov>; Richard Douglas

> <rdouglas@sussexcountyva.gov>; Shilton Ricks Butts

> <sricks@sussexcountyva.gov>

> Cc: sromine@williamsmullen.com; Andy Mayes

> <amayas@commonwealthenvironmental.com>; Molly Dowless

> <brickhill1747@gmail.com>; rogerking33@gmail.com; rotttrucks@aol.com;

> Rufus Tyler <rtyler@impassoc.org>; phyllistolliver2@gmail.com;
> tmassenburg29@gmail.com; Tom Baicy <tbaicy@sussexcountyva.gov>; Eric
> Fly <cefly@icloud.com>; Steve White <steve.white@dbhds.virginia.gov>;
> Wayne Jones <jonesfamily2@msn.com>; shands301@gmail.com;
> deltea@aol.com; Angela McPhaul <amcphaul@town.waverlyva.us>; Franklin
> Cox <Fcox59@gmail.com>; jlebigfoot@gmail.com; Otto Wachsmann
> <owachsmann@yahoo.com>; Kevin Bracy <bornajunker@hotmail.com>
> Subject: [EXT] Re: Big Pines

>
>
> ****EXTERNAL SENDER**:**

> Do not click links, open attachments or enter your ID/Password unless you recognize the sender and certain the content is safe. If anything appears suspicious, report it. Consider the following before taking action: Were you expecting this email? Can you verify the sender? Are the grammar and spelling correct? Does the content or request make sense?

>
> ****EXTERNER ABSENDER**:**

> Klicken Sie nicht auf Links, öffnen Sie keine Anhänge und geben Sie Ihre ID/Ihr Kennwort nur dann ein, wenn Sie den Absender erkennen und sicher sind, dass der Inhalt sicher ist. Wenn Ihnen etwas verdächtig vorkommt, melden Sie es. Beachten Sie Folgendes, bevor Sie Maßnahmen ergreifen: Hatten Sie diese E-Mail erwartet? Können Sie den Absender verifizieren? Sind Grammatik und Rechtschreibung korrekt? Ergibt der Inhalt oder die Aufforderung einen Sinn?

> Will someone please let me know if the required report has been filed and get me a copy of this asap. I really need this asap to make sure the county has the input of the comments made at the neighborhood meeting since those comments are much more lengthy and detailed than the 2 minutes given for comments to individual citizens at public hearings and, in my case, the 5 minutes I get for my group.

> I don't see how our planning department can make any recommendations on the application without the full input of all as evidenced by the required summary. Without that report, those that made comments are being denied their input which report is required by statute, and by denying that input, denying them their due process of the citizen input the county must consider in evaluating this application.

> So can someone please let me know the status of this, the date filed if it was, and if the report was filed, please respond to my FOIA request which, so far, has not been responded to, for the report or copies of any communications between the county and RWE Clean Energy regarding the required report. Without this input, I fail to see how this application can move by the Planning Department forward since all required input is needed to the county so a full evaluation based on citizens input can be made. Without this, the statute has not been met and the info to the county is incomplete and not ready to be acted upon. If this requires a delay of the October 24th hearing, so be it.

> Thank you.

> Sent from my iPhone

>> On Oct 10, 2024, at 11:01 AM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

>> Mrs. Bryan: I'm trying to get a copy of the statutory required summary of the comments made by those attending at the last neighborhood meeting on Sept. 26th which is required to be filed with the county. This is per 16.1-404(b)(5).

>> Would you please provide me with a copy of your filed summary report asap so I can make sure it accurately includes all of my comments which we discussed. Thank you and time is of the essence.

>> Sent from my iPhone

> ****WARNING****

> This email originated from outside of the Barnes & Diehl email network.

> DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS unless you

- > recognize the sender, solicited the information and know the content is safe.
- > NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Thursday, October 10, 2024 4:26 PM
To: Jeff Gore; danielle@heftywiley.com
Cc: Beverly Walkup; Richard Douglas; Shilton Ricks Butts; sromine@williamsmullen.com
Subject: Fwd: Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

I was advised to send this to you, although I made no legal opinion but merely asked if the required report had been filed which was not. Thanks Jeff.

Sent from my iPhone

Begin forwarded message:

From: Beverly Walkup <bwalkup@sussexcountyva.gov>
Date: October 10, 2024 at 4:22:38 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Cc: Kerrine.Bryan@rwe.com, Michael Poarch <mpoarch@sussexcountyva.gov>, Richard Douglas <rdouglas@sussexcountyva.gov>, Shilton Ricks Butts <sricks@sussexcountyva.gov>, sromine@williamsmullen.com, Andy Mayes <amayas@commonwealthenvironmental.com>, Molly Dowless <brickhill1747@gmail.com>, rogerking33@gmail.com, rotttrucks@aol.com, Rufus Tyler <rtyler@impassoc.org>, phyllistolliver2@gmail.com, tmassenburg29@gmail.com, Thomas Baicy <tbaicy@sussexcountyva.gov>, Eric Fly <cefly@icloud.com>, Steve White <steve.white@dbhds.virginia.gov>, Wayne Jones <jonesfamily2@msn.com>, shands301@gmail.com, deltea@aol.com, Angela McPhaul <amcphaul@town.waverlyva.us>, Franklin Cox <Fcox59@gmail.com>, jlebigfoot@gmail.com, Otto Wachsmann <owachsmann@yahoo.com>, Kevin Bracy <bornajunker@hotmail.com>
Subject: RE: Big Pines

Mr. Diehl: Please direct this comment to county legal counsel. I am unable to engage with you concerning legal issues. Sincerely, Beverly

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Thursday, October 10, 2024 4:20 PM
To: Beverly Walkup <bwalkup@sussexcountyva.gov>
Cc: Kerrine.Bryan@rwe.com; Michael Poarch <mpoarch@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; sromine@williamsmullen.com; Andy Mayes <amayas@commonwealthenvironmental.com>; Molly Dowless <brickhill1747@gmail.com>; rogerking33@gmail.com; rotttrucks@aol.com; 'Rufus Tyler' <rtyler@impassoc.org>; phyllistolliver2@gmail.com; tmassenburg29@gmail.com; Thomas Baicy <tbaicy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Steve White <steve.white@dbhds.virginia.gov>; Wayne Jones <jonesfamily2@msn.com>; shands301@gmail.com; deltea@aol.com; Angela McPhaul <amcphaul@town.waverlyva.us>;

Franklin Cox <Fcox59@gmail.com>; jlebigfoot@gmail.com; 'Otto Wachsmann'
<owachsmann@yahoo.com>; Kevin Bracy <bornajunker@hotmail.com>
Subject: Re: Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Thank you. Thank you for confirming they have not complied with the law, making any timing for future hearing or recommendations premature. Nothing in the statute permits any waiver of this requirement and it seems too late now. How can they request a public hearing when their failure to timely comply- and it's probably too late now- deprives the planning dept if our county the input you must consider? The Oct. 24th public hearing must be postponed.

Because of their non compliance with the statute and your need to consider the required input of all citizens since much more detailed comments are made, and were made, at the Sept. 26th neighborhood meeting, than the limited time given for comments at public hearings, I would ask you to defer any final recommendation on this project until they comply with the statute and you have the opportunity to have input from all. And I also ask you to wait until their report is filed after the October 16th neighborhood meeting. Obviously it would not be proper for the Planning Department to make any final recommendation - hopefully denying this project- without the report containing accurate comments of both meetings by our citizens. That why that statute was enacted- to make sure you get the greater citizen input in more detail than the short time for public comments at the public hearing. Makes sense.

And I ask you to further consider the fact that they have failed to timely comply at all with this statute- if they can't even comply with a basic requirement of our CUP-zoning laws, how can the county and your planning dept. trust or have confidence that they will comply with any future laws or requirements? In light of RWE's Georgia solar farm disaster which I uncovered, the huge DEQ violation order and \$24,000+ fine in Wythe County which I also discovered and disclosed to all, and the denials of their solar proposals in Mecklenburg and Prince George Counties in Virginia and who knows where else- the answer is obvious- they can't be trusted one bit. And that is just a small amount of the comments I made on Sept. 26th which they have failed to disclose by their noncompliance with the statute.

This is especially so in light of their continued lack of transparency on so many issues in the past. But their failure to follow the law should cease this process. Their failure to follow the law continues to evidence what I think is the real reason no report was filed- and that is because of the voluminous reasons that were presented at the last meeting adverse to to project. And I discussed so many in much detail which they are required to summarize IN FULL by statute. So I would ask that the Oct 24th hearing be postponed until you have considered all the comments for both neighborhood meetings. You can't make a final recommendation until that input is considered by the county.

Until those reports- both of them- are filed, and they are accurate, all action on this project should be frozen so you can have all the required input. I especially want to make sure all of my detailed comments I discussed at the Sept. 26th meeting are completely and accurately stated in their report.

And please give me a copy of their report if they ever file it. If it's incomplete, I will let you know of their omissions which would make any report not be in compliance with the law.

And have you called Jeff Sharp- the zoning administrator in Oglethorpe, Georgia, who asked very strongly to discuss their experiences with you so he can discuss the problems they had with RWE Clean Energy and how they ruined the land of many landowners by their solar project there? Please do so in order to have done your due diligence in researching how RWE Clean Energy runs things so we can avoid another Waverly Solar disaster. His number is 706-401-8137 and I understand he will be in tomorrow. Our county really needs to research how bad RWE really is and he can confirm all I have told the county.

And finally, even if they have tried to resurrect the dead by trying to comply with the 3 miles from town and 2 miles from other projects which I understand they have done at the last minute, the plan still is not in substantial compliance with our Comprehensive Plan since it does not comply with our goals to maintain our historical protection of timber and agricultural lands- the exact lands they want to destroy. I'll be submitting a more detailed memo on this in the near future as to why it should be a no brainer that this project be denied, just like the very wise decisions of Mecklenburg and Prince George.

Thank you.

Sent from my iPhone

On Oct 10, 2024, at 3:18 PM, Beverly Walkup <bwalkup@sussexcountyva.gov> wrote:

Dear Mr. Diehl: At this time, planning and zoning staff has not received a summary from the applicant of the neighborhood meeting. I will communicate with the applicant directly to ensure receipt.

Sincerely, Beverly

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

Sent: Thursday, October 10, 2024 2:16 PM

To: Kerrine.Bryan@rwe.com; Beverly Walkup <bwalkup@sussexcountyva.gov>; Michael Poarch <mpoarch@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>

Cc: sromine@williamsmullen.com; Andy Mayes <amayes@commonwealthenvironmental.com>; Molly Dowless <brickhill1747@gmail.com>; rogerking33@gmail.com; rotttrucks@aol.com; 'Rufus Tyler' <rtyler@impassoc.org>; phyllistolliver2@gmail.com; tmassenburg29@gmail.com; Thomas Baicy <tbaicy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Steve White

<steve.white@dbhds.virginia.gov>; Wayne Jones <jonesfamily2@msn.com>;
shands301@gmail.com; deltea@aol.com; Angela McPhaul
<amcphaul@town.waverlyva.us>; Franklin Cox <Fcox59@gmail.com>;
jlebigfoot@gmail.com; 'Otto Wachsmann' <owachsmann@yahoo.com>; Kevin
Bracy <bornajunker@hotmail.com>
Subject: Re: Big Pines

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Will someone please let me know if the required report has been filed and get me a copy of this asap. I really need this asap to make sure the county has the input of the comments made at the neighborhood meeting since those comments are much more lengthy and detailed than the 2 minutes given for comments to individual citizens at public hearings and, in my case, the 5 minutes I get for my group.

I don't see how our planning department can make any recommendations on the application without the full input of all as evidenced by the required summary. Without that report, those that made comments are being denied their input which report is required by statute, and by denying that input, denying them their due process of the citizen input the county must consider in evaluating this application.

So can someone please let me know the status of this, the date filed if it was, and if the report was filed, please respond to my FOIA request which, so far, has not been responded to, for the report or copies of any communications between the county and RWE Clean Energy regarding the required report. Without this input, I fail to see how this application can move by the Planning Department forward since all required input is needed to the county so a full evaluation based on citizens input can be made. Without this, the statute has not been met and the info to the county is incomplete and not ready to be acted upon. If this requires a delay of the October 24th hearing, so be it.

Thank you.

Sent from my iPhone

On Oct 10, 2024, at 11:01 AM, Lawrence Diehl
<ldiehl@barnesfamilylaw.com> wrote:

Mrs. Bryan: I'm trying to get a copy of the statutory required summary of the comments made by those attending at the last

neighborhood meeting on Sept. 26th which is required to be filed with the county. This is per 16.1-404(b)(5).

Would you please provide me with a copy of your filed summary report asap so I can make sure it accurately includes all of my comments which we discussed. Thank you and time is of the essence.

Sent from my iPhone

****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you
recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords

****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Wednesday, October 9, 2024 11:15 AM
To: Michael Poarch; Beverly Walkup; Richard Douglas; Shilton Ricks Butts
Subject: Fwd: Big Pines -RWE Clean Energy

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Sending again since emails to you came back undeliverable. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 9, 2024 at 11:01:28 AM EDT
To: Michael Poarch <mpoarch@sussexcountyva.gov>, Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Shilton Ricks Butts <sricks@sussexcountyva.gov>, rogerking33@gmail.com, shands301@gmail.com, Andy Mayes <amayas@commonwealthenvironmental.com>, phyllistolliver2@gmail.com
Cc: Kerrine.Bryan@rwe.com, Molly Dowless <brickhill1747@gmail.com>, Frances Chambers <fchambers@nsacademy.org>, Eric Fly <cefly@icloud.com>, phyllistolliver2@gmail.com, Wayne Jones <jonesfamily2@msn.com>, rotttrucks@aol.com, Rufus Tyler <rtyler@impassoc.org>, Steve White <steve.white@dbhds.virginia.gov>, tmassenburg29@gmail.com, deltea@aol.com, sromine@williamsmullen.com, jl@barnesfamilylaw.com
Subject: Big Pines -RWE Clean Energy

Per Va Code 16.1-404(b)(5), it is required that the applicant provide our zoning administrator a summary of the comments made at the neighborhood meeting. The last such meeting was held in September 26, 2025.

This is to request (1) confirmation that RWE Clean Energy submitted the required summary of comments and (2) per FOIA, this is to request a copy of their required summary filed with the county relating to the September 26th neighborhood meeting.

I really need this asap since there is now another neighborhood meeting set for October 16, 2025 and I made alot of comments at the last meeting. I want to make sure they accurately put in their report all- not just some- of my many comments especially due to their lack of transparency on many issues in the past. If they left any out - then they are not in compliance with the statutory requirements.

Thank you.
Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, October 7, 2024 8:27 AM
To: Richard Douglas; Beverly Walkup; Thomas Baicy; Shilton Ricks Butts; David Conmy
Subject: Fwd: Counties with the highest unemployment in Virginia

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Trying again.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 7, 2024 at 8:25:40 AM EDT
To: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Tom Baicy <tbaicy@sussexcountyva.gov>, Michael Poarch <mpoarch@sussexcountyva.gov>, Shilton Ricks Butts <sricks@sussexcountyva.gov>, David Conmy <dconmy@sussexcountyva.gov>
Subject: Counties with the highest unemployment in Virginia

See below which I'm sending to you since my first emails to you came back again as undelivered. Thank you.

Mrs. Walkup- I hope you consider this in making your recommendations- I'm not sure you had this data which just came out.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 7, 2024 at 8:21:42 AM EDT
To: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, Kerrine.Bryan@rwe.com, deltea@aol.com, ptolliver@sussexcountyva.com, rotttrucks@aol.com, Richard Douglas <rdouglas@sussexcountyva.gov>, jlebigfoot@gmail.com, Thomas Baicy <tbaicy@sussexcountyva.gov>, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Michael Poarch <mpoarch@sussexcountyva.gov>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler

<rtyler@impassoc.org>, Shilton Ricks Butts <sricks@sussexcountyva.gov>

Subject: Counties with the highest unemployment in Virginia

Mrs. Bryan: please take a look at the official unemployment statistics of the Department of Labor as of this August. Sussex County is listed as having the second worse unemployment rate.

If somehow (and I can't conceive of how) your project is approved, our county would probably loose 20-30 local employees ranging from timber and agricultural workers currently working in our precious timberland, as well as drivers of the timber, mill workers etc. Assuming your data of 3 permanent workers is correct, that would result in a net loss of 17-27 workers. If you adjust the Sussex data- that puts Sussex at over 6% unemployment- highest by far in the state. Congrats for planning to make Sussex no. 1 in something- disgraceful.

And if you want to be transparent which you falsely state on so many misrepresentations in your Big Pine website- please also include this data above in your website so our citizens can be accurately informed of this factor, rather than omitting this from your current site. I'm sure you would never want to mislead our citizens of this, would you! Thank you.

Unemployment rates have continued to rise across U.S. metropolitan areas, provoking alarm throughout the nation and guiding the Federal Reserve's decision to cu...

Source: WAVY.com
<https://search.app/xxXqAECNhvAwKtz97>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, October 5, 2024 9:02 PM
To: Richard Douglas; Thomas Baicy; Michael Poarch; phyllistolliver2@gmail.com; Shilton Ricks Butts; Beverly Walkup
Subject: Fwd: Big Pine - RWE Query Responses 241005

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

See my comments in response to the info I received from Mrs. Bryan.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 5, 2024 at 8:55:11 PM EDT
To: Kerrine.Bryan@rwe.com
Cc: sromine@williamsmullen.com
Subject: Re: Big Pine - RWE Query Responses 241005

First, regarding the Oglethorpe order, I spoke directly with Jeff Sharp just this last Monday. There still is in effect an order limiting your operation to only resolving the issues of compliance with the serious environmental problems that, in his words- not mine- ruined the lands of many landowners. The initial cease and desist order was only amended to permit RWE to merely do what is necessary to resolve in full all environmental issues. That order is still in effect since after 9 months the problems have still not been resolved. Guess once again you omitted and forgot to accurately represent the status of that project- so your response is once again not transparent. So once again your attempt to avoid transparency by saying there are no restrictions in your Georgia project after 9 months is very concerning. Both Mr. Sharp and the Commissioner I spoke to last week both said RWE was very difficult to work with and my prior summaries of what they told me is accurate. So I would suggest you call them directly so you can get the accurate facts- yes- a total cease and desist order was modified- but only to remedy your problems- not to be fully operative. Better get your facts straight in the future. Mr. Sharp was so critical of RWE that he asked for our Planning Dept. to call him so he could go over in detail how you've been less than cooperative and ruined the lands of numerous landowners. Again, please call him so you can get your facts straight in the future instead of attempting to de minimize the problems of your Georgia project.

And to say your project is in "substantial compliance" with our Plan is totally false. As I've said before, this is DEAD ON ARRIVAL. The representation that the project is "approximately" 3 miles is a joke - 2.3 miles is not even close to being in compliance with our plan. And that is apart from the problems in complying with the 2 mile distance requirement from 2 other solar farms. And that is also apart from your project being inconsistent with our overall Plan vision, and the Waverly/Newville district plan goal which both clearly state we are to preserve our rural heritage, give priority to maintaining timber and agriculture lands- which your project would ruin. And there's a lot more problems with your proposed project that I've addressed.

And it's also important to know how RWE has had a history of environmental problems leading to compliance orders which luckily I researched, such as in Georgia and here in Virginia in Wythe County which had the DEQ order specifying voluminous number of violations and leading to a \$24,000+ fine. And that is also apart from the fact RWE was denied your application for solar farms in Prince George and Mecklenburg Counties. Enough said on the real facts of what RWE has shown in its poor record in these projects.

So in summary, you can spin your magic words anyway you want, but the facts are- not only is this application not in substantial compliance with our county's Comprehensive Plan, but your project is in serious NON substantial compliance with our county's plans. Not even close.

And as far as RWE lack of transparency- the misrepresentation of the 2.3 miles, the omission completely of the failure to state the distance of your project being in noncompliance of the 2 mile requirement in your website, the failure to state that although there may be 3 long term employees on the project- how about the LOSS of the many more timber and agricultural employees/truck drivers/mill worker- who will lose there jobs- all should have been on your website to be accurate and transparent. It's like my research and, only now your admissions, is like I caught your hand in the cookie jar.

As to property values- I couldn't care less about national studies-I would be interested in who paid for them. Since your reps admitted at the neighborhood meeting the studies did not include Sussex County, Virginia or whether those studies had the other solar farms that were not compliant with distance requirements as is occurring here- unless all of those factors were part of the study and unless Sussex was part of the study - it is irrelevant. Apparently RWE has done no studies - nothing here -to get any data to support how the impact on values has occurred here. I will rely on the opinion of the local real estate agent who gave me that opinion and knows our local market any day over any study that might have occurred in Michigan, California, Indiana or who know where.

And to say your project is in a remote area proves by your own words that it is in a rural area whose timberland and agricultural integrity needs to be preserved. Again, that is the key priority- preservation of our rural heritage, in our plan. Your project does not comply with our County's decades of this heritage so thank you for admitting where it would be located showing it is 100% in violation of our Plan goals.

And as to the ridiculous statement that since this project will not be visual to most, and so any impact on our county and specifically Waverly makes this project ok-I guess you'd also agree that since those who suffered radioactive damage in the Three Mile Island and Chernobyl nuclear disasters just have to live with their injuries since they also generally could not actually see the nuclear plants from their houses. No Mrs. Bryan- the impact of this to the citizens of our county goes to all who live here- and to attempt to relegate all of us living here to second class citizens just because we can't "see" the project is disgraceful.

And as to RWE being an environmental steward- I'm sure Mr. Sharp in Georgia would disagree strongly and again- call him before you make such statements. And yes- I did get the copy of the Wythe County Solar/DEQ order. I've shared that with all involved or interested in this project. I kind of lost count of the number of violations RWE caused as a "seward" after the first few pages- but suffice it to say your record in protecting the environment leaves a lot to be desired.

And, as to the reputation of RWE - I only care about this county. The fact that you keep repeating that RWE has 200,000 employees world wide and 1,200 here actually sounds like you're so big you act like a bully since your such big shots. You come down to pick on our rural county and like a bulldozer attempt to bulldoze this project that doesn't even come close to substantially complying with our Plan requirements and County Plan goal of preserving our rural heritage- not ruining it. Maybe you think our

County is a bunch of stupid hicks who don't know squat. I assure you- that is not the case. So it might help in the future to stop repeating how big and great you say you are- and start focusing on the facts related to our County and your attempt to run a clearly non compliant solar project down our throats based on the transparency's which I'm proud to say I've caught you in.

And finally- as to the integrity of RWE Clean Energy, RWE is owned by RWE GROUP. As I've researched, your parent company, which reflects on the entire integrity of all RWE entities, filed in UK litigation involving those injured or suffering lung damage by asbestos damages, a wacko report saying there is no proof of any relationship between asbestos and lung damage. Are you kidding me? I suppose this Vodoo expert probably thinks the world is flat. And to make it worse- reflecting in the "great integrity" of RWE- it's reported that RWE has delayed and delayed many of these cases to wait for the claimants to die so RWE doesn't have to pay anything for those that died. RWE a company of integrity? How dare you make that claim. And if RWE can be so insensitive to act like that and to rely on clearly bogus VODOO science, how can our county expect to rely on any of your reports and info?

While appreciate your response- nothing that was offered has changed any of the problems that should make your project dead on arrival. The veiled attempt to continue the transparencies of misinformation or incomplete information by using nice, glossy magic words - doesn't change the facts. In the words of one of my learned law professors, he said: "Wishing doesn't make it so." So you can keep on wishing, but the facts, as I've researched them, are the facts.

Thank you.

Sent from my iPhone

On Oct 5, 2024, at 7:05 PM, Kerrine.Bryan@rwe.com wrote:

-NOT ENCRYPTED-

Dear Mr. Diehl,

I hope this message finds you well. I am writing to provide our complete response regarding your outstanding queries on the Big Pine Solar project in Sussex, VA.

Query	RWE Responses
1. Environmental Concerns	
RWE Clean Energy in Oglethorpe County, Georgia,	After RWE addressed the County's from January 26th was promptly li on February 9th to this day. There order" at the Timberland project.
What measures are being taken to address potential runoff and other environmental impacts of the Big Pine project?	Per our CUP Application, an Erosic developed in accordance with the Ordinance of Sussex and Virginia E be submitted to the County for re

	<p>Water Conservation District and the Environmental Quality prior to any I submission of the Erosion and Sedin contact the County's erosion and se reasonable efforts to arrange a mee engineer. Stormwater management controls and monitoring will be appl</p> <p>A Stormwater Management Plan wil Department of Environmental Quali prior to any land disturbance. RWE \ Pollution Prevention Plan ("SWPPP"</p>
<p>2. Compliance and Transparency:</p>	<p>RWE is transparent and open and w members, the County and partners 1</p> <p>Regarding your query on the RWE W the website was created prior to the wording will be updated to avoid an substantial accordance with the cou complies with county ordinance req</p> <p>The secured land for the project is w understand that the Use Permit for t not taken that project into account. mile buffer to Waverly solar.</p>
<p>3. Subcontractor Accountability: Who are the specific subcontractors involved in the Big Pines project?</p>	<p>We have not signed any contracts w Unfortunately, we are unable to sign until the project receives the necess</p>
<p>4. Impact on Property Values:</p>	<p>Studies conducted nationwide have no measurable impact on home valu from North Carolina to Tennessee st projects match the value of similar p projects within one percentage poin Additionally, Big Pine Solar will be in forestry land and sited next door to plant vegetation around the project' impact. Due to all these factors, the most members of the community.</p>
<p>5. RWE Reputation and Credibility</p>	<p>With over 20,000 employees globally reputable company with a 125-year operating assets. Our US Clean Energy US market for the past 15 years, led organization, occasional challenges a responsibility and are committed to safely.</p>
<p>Has RWE Clean Energy, LLC or RWE Group, the parent company, been a party to any litigation or DEQ or other state investigation fines or complaints for any of their solar projects anywhere? If so, provide the details and the location of each case, fine or investigation and the nature of each case or complaint.</p>	<p>There was a consent order for RWE' have worked closely with the Virgini Quality to address the impacts ment are continuing to engage with them environmental steward is a priority f improve our project designs to mitig</p>

<p>Please get me a copy of the DEQ consent order relating to your Wythe County project asap.</p>	<p>construction team is onsite every project is built safely and in an en</p> <p>We note you were provided with email dated 10/1/24.</p>
<p>6. Public Opinion and Transparency: Why were certain questions not addressed during the virtual neighborhood meeting, and why was there a lack of transparency in the responses?</p>	<p>The staff taking questions did not apologize if you were unable to h; session but hope we were able to the in-person meeting.</p>

Kerrine Bryan
Senior Manager, Utility Scale Development – East

RWE Clean Energy
100 Summit Lake Drive, Valhalla, NY 10595
Tel.: +1 (872) 335-6176
Email: kerrine.bryan@rwe.com
rwecleanenergy.com

Links contained in this email have been replaced. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, October 1, 2024 2:25 PM
To: Richard Douglas; Beverly Walkup
Subject: Fwd: 62925CO094 Wythe County Solar Project Consent Order
Attachments: Outlook-y2gdc3bx.png; _VAR10P444 - Executed Order - 20240819.pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Here is a copy of the Wythe County-DEQ consent order I found out about, and my comments below. I hope you will add this to your consideration of RWEs application and consider this in denying their application. We don't want another Waverly Solar fiasco which would occur based on their poor history of performance. Hope you agree.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 1, 2024 at 2:15:41 PM EDT
To: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, deltea@aol.com, rotttrucks@aol.com, jlebigfoot@gmail.com, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler <rtyler@impassoc.org>
Subject: 62925CO094 Wythe County Solar Project Consent Order

Per my investigation of RWE in order for the county to have a transparent idea of how RWE runs other solar projects, attached is the Wythe County Solar- DEQ consent order I have previously referred to and which order was entered just over a month ago in August, 2024. At the neighborhood meeting of RWE last week their reps acknowledged there was such an order. And for all of your info, the RWE website lists the Wythe County Solar project as actually run by RWE, which is acknowledged by RWE.

I would ask all to review this order. The violations of many of the DEQ regulations are extensive, but range from runoff issues, site protection and pollution issues, and the failure to identify all of the subcontractors who apparently caused some of the damages specified. You need to look at the entire order to fully appreciate the extent of their violations, but check out paragraphs 40 dealing with subs and 46 listing and specifying the voluminous number of violations.

And similar to the Georgia situation, from the history of this project outlined in the order, immediately after DEQ issued its notice of violations in December, 2023, the Wythe County officials issued its own cease and desist order. That order has been amended and released in part

over time as stated based on the efforts of RWE to resolve the issues, which compliance is now based on the schedule of compliance in Appendix A and is still ongoing.

And this project was not only found to be in violation of multiple requirements, but RWE was also fined over \$24,000+. And to further confirm this, I called and personally spoke with the Wythe County environmental director who confirmed all of this.

In summary, please read the order- yes, it's lengthy, but again reflects poorly on RWEs solar projects.

I would ask our planning department to consider this info and I don't mind one bit that I've investigated this for the county since all we want is to know the true facts about RWE. I can't conceive we would ever want this company in our county. Maybe this is also a reason why both Prince George and Mecklenburg Counties, and perhaps other localities, denied solar project applications of RWE.

And their poor record of performances is apart from the fact that this project should be DEAD ON ARRIVAL due to its clear non substantial compliance with our County's well thought out distance requirements in our Comprehensive Plan.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: "Womack, Natalie (DEQ)" <Natalie.Womack@deq.virginia.gov>
Date: October 1, 2024 at 12:33:39 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Cc: "DEQ-DEQFOIA (DEQ)" <deqfoia@deq.virginia.gov>
Subject: 62925CO094 Wythe County Solar Project Consent Order

Good afternoon,

Thank you for your call today, and taking time to chat with me this morning. Please see the attached document: VAR10P444 Executed Orde- 20240819. The document will be he Wythe County Solar Project Consent Order. If there is anything else you need please feel free to reach out to me directly.

Please confirm that you have received this information.

Natalie Driver Womack
Freedom of Information Act Officer,
Policy Division
Virginia Department of Environmental
Quality
1111 East Main Street, Suite 1400
Richmond, VA 23219
(804) 774-1224

Links contained in this email have been replaced. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WYTHE COUNTY SOLAR PROJECT, LLC
Virginia Pollutant Discharge Elimination System Permit No. VAR10P444**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the Virginia Department of Environmental Quality (Department or DEQ) and Wythe County Solar Project, LLC, regarding the Wythe County Solar Project, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms have the meanings assigned to them in Va. Code § 62.1-44.2 *et seq.*, § 62.1-44.15:24 *et seq.*, the Virginia Stormwater Management Program (VSMP) Regulation at 9 VAC 25-870-10., and the General VPDES Permit for Discharges of Stormwater from Construction Activities at 9 VAC 25-880-1.

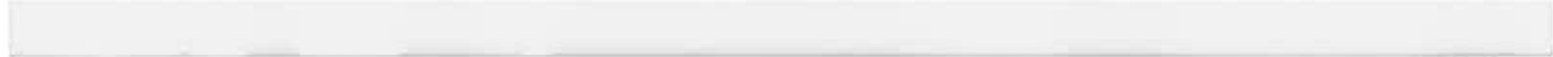
SECTION C: Findings of Fact and Conclusions of Law

1. Wythe County Solar Project, LLC (Wythe Solar) is a business entity authorized to do business in Virginia and references to Wythe Solar include its affiliates, partners, and subsidiaries. Wythe Solar is a "person" within the meaning of Va. Code § 62.1-44.3.
2. Wythe Solar owns and operates the Wythe County Solar Project located along Payne Towne Road and Electric Lane, and positioned at approximate latitude 36.8805° N and longitude 80.8479° W, in Max Meadows, Wythe County, Virginia (Site) from which stormwater associated with construction activity is discharged.
3. DEQ is the VSMP authority for the Site.

4. Wythe Solar applied for and, on April 12, 2023, was granted coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law and VSMP Regulations, and the General Permit Regulation on July 1, 2019, and which expires on June 30, 2024 (2019 Permit). Wythe Solar was assigned registration number VAR10P444.
5. The 2019 Permit allows Wythe Solar to discharge stormwater associated with construction activities from the Site to two unnamed tributaries to the New River, in strict compliance with the terms and conditions of the 2019 Permit.
6. The unnamed tributaries to the New River are surface waters located wholly within the Commonwealth and are "state waters" under the State Water Control Law.
7. The unnamed tributaries are located in the New River Basin, Section 2, Class IV, Special Standard: v. This section of the New River is listed in DEQ's 305(b) report as impaired for temperature.
8. On November 14, 2023, December 12, 2023, and January 29, 2024, DEQ staff conducted inspections of the Site and observed that land-disturbing activities greater than one acre had occurred at the Site in an area subject to stormwater runoff.
9. During the November 14, 2023 inspection, DEQ staff observed the Stormwater Pollution Prevention Plan (SWPPP) did not contain an adequate pollution prevention plan. The Pollution Prevention section of the SWPPP referenced a pollution prevention plan, but a copy of the pollution prevention plan was not included in the SWPPP. On November 30, 2023, Wythe Solar submitted correspondence to DEQ stating that the pollution prevention plan was added to the SWPPP on November 27, 2023.
10. During the November 14, 2023, and December 12, 2023, inspections, DEQ staff observed the SWPPP identified one, but not all, of the contractor(s) that are to implement and maintain each control measure. A certification page was included in the SWPPP for the site grading contractor; however, multiple other contractors with responsibility for controls were present on the Site with no information listed in the SWPPP. On December 21, 2023, Wythe Solar submitted correspondence to DEQ stating that, on December 18, 2023, certification pages had been added to the SWPPP for all contractors responsible for implementing and maintaining control measures.
11. During the November 14, 2023, and December 12, 2023, inspections, DEQ staff observed the SWPPP had not been updated when modifications to its implementation had occurred, including a record of dates when major grading activities occur, construction activities temporarily or permanently cease on a portion of the site, or stabilization measures are initiated. The grading log was in the grading contractor's office but not included in the SWPPP, as required by Part II(C)(4)(a) of the 2019 Permit. On November 30, 2023, Wythe Solar submitted correspondence to DEQ stating that, on

November 27, 2023, past grading logs had been added to the SWPPP, while grading logs for the current week were maintained in the grading contractor's field office.

12. During the November 14, 2023, and December 12, 2023, inspections, DEQ staff observed that sequencing of the project had not been implemented in accordance with the approved erosion and sediment control and stormwater management plans. Areas of land disturbance were observed prior to installation of functional perimeter controls. Basin 23 was not yet functional at the time of these inspections with upgradient land disturbance. Trap 7 and Trap 8 had not yet been installed with upgradient land disturbance. Additionally, construction road stabilization had not been applied in accordance with the approved plan. On November 30, 2023, Wythe Solar submitted correspondence to DEQ stating that upgradient land-disturbing activities had been halted until perimeter controls were installed and made functional, which were reportedly completed on November 27, 2023. Wythe Solar submitted correspondence to DEQ on December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions. On January 25, 2024, Wythe Solar telephoned DEQ to advise that all perimeter controls were in place, all basins and traps had been made functional, and construction road stabilization had been applied in accordance with the approved plan.
13. During the December 12, 2023, and January 29, 2024, inspections, DEQ staff observed areas of land disturbance that had remained dormant for more than 14 days without having stabilization measures applied. Wythe Solar submitted correspondence to DEQ on November 30, 2023, December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective prior inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions.
14. During the November 14, 2023, December 12, 2023, and January 29, 2024, inspections, DEQ staff observed areas of land disturbance which had no functional sediment trapping controls in place downgradient. On November 30, 2023, Wythe Solar submitted correspondence to DEQ stating that upgradient land-disturbing activities had been halted until perimeter controls were installed and made functional, which were reportedly completed on November 27, 2023. Wythe Solar submitted correspondence to DEQ on December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions. On January 25, 2024, Wythe Solar telephoned DEQ to advise that all perimeter controls were in place, all basins and traps had been made functional, and construction road stabilization had been applied in accordance with the approved plan. However, during the January 29, 2024, inspection, DEQ staff observed areas of land disturbance downslope of Temporary Sediment Trap 7 with no stabilization measures and no functional sediment trapping controls in place downgradient.



15. During the December 12, 2023, inspection, DEQ staff observed earthen structures that had not been stabilized immediately after installation. Wythe Solar submitted correspondence to DEQ on December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions. During the January 29, 2024 inspection, DEQ verified that corrective actions had been implemented to correct this observation.
16. During the November 14, 2023, December 12, 2023, and January 29, 2024, inspections, DEQ staff observed concentrated runoff discharges over cut and fill slopes that were not contained in an adequate temporary or permanent slope conveyance structure. Wythe Solar submitted correspondence to DEQ on November 30, 2023, December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions.
17. During the January 29, 2024, inspection, DEQ staff observed operable storm drains which had no functional inlet protection. According to information provided by Wythe Solar, following the inspection on January 29, 2023, Culvert L-1 was cleaned and repaired. Inlet protection was then installed so that sediment and rocks do not accumulate inside of the culvert. In addition, a culvert located in the laydown yard was cleaned and inlet protection was installed. Also, all remaining storm drains were inspected by Wythe Solar staff. As of February 14, 2024, all storm drains received inlet protection. These actions were noted in a communication sent to DEQ on Wythe Solar's behalf on March 21, 2024, but have not been verified by DEQ.
18. During the November 14, 2023, December 12, 2023, and January 29, 2024, inspections, DEQ staff observed that outlet protection and channel linings had not been installed in accordance with the approved plan or were not installed in accordance with the detail contained in the approved plan. On November 30, 2023, Wythe Solar submitted correspondence to DEQ stating that installation of channel linings had been completed on November 21, 2023. Wythe Solar submitted correspondence to DEQ on November 30, 2023, December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions. Following the inspection on January 29, 2024, channel lining and silt socks were reportedly installed around the inlet of Basin 13. This action was noted in communication sent to DEQ on Wythe Solar's behalf on March 21, 2024, but has not been verified by DEQ.
19. During the November 14, 2023, December 12, 2023, and January 29, 2024, inspections, DEQ staff observed that planned stormwater discharges from Basins 8, 10, 12, and 19 did not appear to have adequate receiving channels.

20. During the December 12, 2023 and January 29, 2024, inspections, DEQ staff observed that sediment control measures were not being properly maintained in an effective operational condition. Wythe Solar submitted correspondence to DEQ on December 21, 2023, January 10, 2024, and January 25, 2024, indicating the various activities conducted during interceding time periods to correct respective inspection observations and addressing delays due to rain events and the inaccessibility of some locations due to adverse site conditions.
21. Permit Part II(B) states, in part: "The SWPPP shall include the following items: ... 4. Pollution prevention plan. A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any support activity. The pollution prevention plan shall: (a) Identify the potential pollutant-generating activities...; (b) Describe the location where the potential pollutant-generating activities will occur...; (c) Identify all nonstormwater discharges, as authorized in Part I E...; (d) Identify the person responsible for implementing the pollution prevention practice or practices for each pollutant-generating activity (if other than the person listed as the qualified personnel); (e) Describe the pollution prevention practices and procedures that will be implemented to: (1) Prevent and respond to leaks, spills, and other releases...; (2) Prevent discharge of spilled and leaked fuels and chemicals...; (3) Prevent the discharge of soaps, solvents, detergents, and wash water from construction materials...; (4) Minimize the discharge of pollutants from vehicle and equipment washing, wheel wash water, and other types of washing...; (5) Direct concrete wash water into a leak-proof container or leak-proof settling basin...; (6) Minimize the discharge of pollutants from storage, handling, and disposal of construction products, materials, and wastes...; (7) Prevent the discharge of fuels, oils, and other petroleum products, hazardous or toxic wastes, and sanitary wastes; and (8) Address any other discharge from the potential pollutant-generating activities not addressed above; and (f) Describe procedures for providing pollution prevention awareness of all applicable wastes...to personnel in order to comply with the conditions of this general permit. The operator shall implement the procedures described in the SWPPP."
22. Permit Part II(B)(2)(c) states: "An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, implemented to: (1) Control the volume and velocity of stormwater runoff within the site to minimize soil erosion; (2) Control stormwater discharges, including peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion; (3) Minimize the amount of soil exposed during the construction activity; (4) Minimize the disturbance of steep slopes; (5) Minimize sediment discharges from the site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the site; (6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration,

unless infeasible; (7) Minimize soil compaction and, unless infeasible, preserve topsoil; (8) Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days; and (9) Utilize outlet structures that withdraw stormwater from the surface (i.e., above the permanent pool or wet storage water surface elevation), unless infeasible, when discharging from sediment basins or sediment traps.”

23. Permit Part II(C)(3) states: “The SWPPP shall clearly identify the contractors that will implement and maintain each control measure identified in the SWPPP. The SWPPP shall be amended to identify any new contractor that will implement and maintain a control measure.”
24. Permit Part II(C)(4) states, in part: “The operator shall update the SWPPP as soon as possible but no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items: a. A record of dates when: (1) Major grading activities occur; (2) Construction activities temporarily or permanently cease on a portion of the site; and (3) Stabilization measures are initiated; ... e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release; f. Measures taken to prevent the reoccurrence of any prohibited discharge;...”
25. Permit Part II(F)(1) states: “All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”
26. 9 VAC 25-840-40(1) states: “Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.”
27. 9 VAC 25-840-40(4) states: “Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place.”
28. 9 VAC 25-840-40(5) states: “Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.”

29. 9 VAC 25-840-40(8) states: "Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure."
30. 9 VAC 25-840-40(10) states: "All storm sewer inlets that are made operable during construction shall be protected so that sediment-laden water cannot enter the conveyance system without first being filtered or otherwise treated to remove sediment."
31. 9 VAC 25-840-40(11) states: "Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel."
32. 9 VAC 25-840-60(A) states: "All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan."
33. 9 VAC 25-870-54(B) states: "An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations."
34. 9 VAC 25-870-54(C) states: "A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the VSMP authority."
35. 9 VAC 25-870-54(D) states: "A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences."
36. 9 VAC 25-870-54(G) states: "The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site."
37. 9 VAC 25-880-1 states, in part: "... "Initiation of stabilization activities" means: 1. Prepping the soil for vegetative or nonvegetative stabilization; 2. Applying mulch or other nonvegetative product to the exposed area; 3. Seeding or planting the exposed area;

4. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or, 5. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization. This list is not exhaustive...”
38. The Department has not issued coverage under any permit or certificate to Wythe Solar other than under the 2019 Permit.
39. On December 27, 2023, DEQ issued NOV No. NOV-010-1223-SC to Wythe Solar, citing the violations observed during the November 14, 2023, and December 12, 2023, Site inspections.
40. On December 28, 2023, Wythe County, the Virginia Erosion and Sediment Control Program authority for the Site, issued a stop work order to Wythe Solar requiring that all work cease, with exception of activities to bring the Site into compliance with the County’s Erosion and Sediment Control Ordinance.
41. On January 10, 2024, Wythe Solar submitted a written response to the December 27, 2023, NOV. On January 11, 2024, Wythe Solar telephoned DEQ to discuss the corrective actions that were being implemented and requested that DEQ perform a follow-up Site inspection to verify the adequacy of the corrective actions once all had been completed. As noted above, regular correspondence to address concerns and provide Site progress updates occurred with DEQ staff prior to the issuance of the NOV and continued thereafter, including the January 10, 2024, NOV response from Wythe Solar. Such correspondence included frequent written updates and maps of progress made on site. Corrective actions described in the NOV response included, but were not limited to, the application of straw and seed to denuded areas; installation of erosion control blankets on slopes; removal of sediment build-up around perimeter controls; and reinstallation of inlet protection.
42. On January 17, 2024, Wythe County issued a partial release of the December 28, 2023, stop work order, allowing construction to resume on three designated sections of the Site.
43. On January 25, 2024, Wythe Solar telephoned DEQ to advise that all on-site corrective actions had been completed, and the Site was ready for DEQ inspection. On January 29, 2024, DEQ conducted the follow-up Site inspection.
44. On January 30, 2024, Wythe County issued a partial release of the December 28, 2023, stop work order, allowing construction to resume on seven designated sections of the Site.
45. On February 20, 2024, Wythe County issued a final full release of the December 28, 2023, stop work order, allowing construction to resume on all sections of the Site, a copy of which has been provided to the Department.

46. Based on the results of the November 14, 2023, December 12, 2023, and January 29, 2024, inspections, the Department concludes that Wythe Solar violated 9 VAC 840-40(1), 9 VAC 25-840-40(4), 9 VAC 25-840-40(5), 9 VAC 25-840-40(8), 9 VAC 25-840-40(10), 9 VAC 25-840-40(11), 9 VAC 25-870-54(B), 9 VAC 25-870-54(C), 9 VAC 25-870-54(D), 9 VAC 25-870-54(G), 9 VAC 25-870-56(A)(2), 9 VAC 25-870-60(A), and the conditions of 2019 Permit Parts II(B), II(C)(3), II(C)(4)(a), II(C)(4)(e), II(C)(4)(f), and II(F)(1), as described in paragraphs C(9) through C(18) and C(20) of this Order.
47. In order for Wythe Solar to complete its return to compliance, DEQ staff and Wythe Solar have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Department orders Wythe County Solar Project, LLC, and Wythe County Solar Project, LLC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$24,570.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Wythe County Solar Project, LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Stormwater Local Assistance Fund. If the Department has to refer collection of moneys due under this Order to the Department of Law, Wythe County Solar Project, LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Wythe Solar for good cause shown by Wythe Solar, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, in NOV No. NOV-010-1223-SC, dated December 27, 2023, and in the January 29, 2024, inspection report. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Wythe Solar admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Wythe Solar consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Wythe Solar declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.
6. Failure by Wythe Solar to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Wythe Solar shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Wythe Solar shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wythe Solar shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Wythe Solar. Nevertheless, Wythe Solar agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Wythe Solar has completed all of the requirements of the Order;
 - b. Wythe Solar petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Department terminates the Order in his or its sole discretion upon 30 days' written notice to Wythe Solar.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Wythe Solar from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

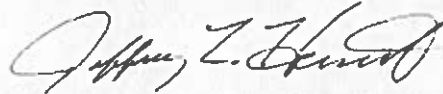
- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Wythe Solar and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Wythe Solar certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Wythe Solar to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Wythe Solar.

Consent Order
Wythe County Solar Project, LLC
VPDES Permit No. VAR10P444
Page 12 of 14

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Wythe Solar voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19th day of August, 2024.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

Consent Order
Wythe County Solar Project, LLC
VPDES Permit No. VAR10P444
Page 13 of 14

Wythe County Solar Project, LLC voluntarily agrees to the issuance of this Order.

Date: 6/17/2024 By: [Signature] Senior Vice President
(Person) (Title)
Wythe County Solar Project, LLC

STATE of ILLINOIS
~~Commonwealth of Virginia~~

City/County of COOK

The foregoing document was signed and acknowledged before me this 17th day of

JUNE, 2024, by JOHN A. BADEUSZ who is

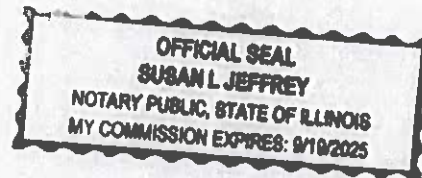
Senior Vice President of Wythe County Solar Project, LLC, on behalf of the
company.

[Signature]
Notary Public

536086
Registration No.

My commission expires: 09-19-2025

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Wythe County Solar Project, LLC shall:

1. Within 30 days of the effective date of this Order, submit a stormwater management (SWM) plan modification to DEQ for review and approval. The SWM plan modification shall address all concentrated stormwater discharges from stormwater management basins at the Site that do not discharge to an adequate receiving conveyance, including but not limited to those basins described in paragraph C(19) of this Order. Wythe County Solar Project, LLC shall respond to any DEQ plan review comments, in writing, within 14 days of the date of the comments.

The SWM plan modification shall be submitted to PlanReview@deq.virginia.gov. Submission packages exceeding 20 MB must be submitted through VITAShare. If you do not have a VITAShare account, please submit a request to PlanReview@deq.virginia.gov. In addition, please copy the DEQ Southwest Regional Office contact listed below when submitting the SWM plan modification.

DEQ Southwest Regional Office contact:

Jonathan Chapman
Enforcement Specialist
VA DEQ – Southwest Regional Office
355-A Deadmore Street
Abingdon, Virginia 24210
jonathan.chapman@deq.virginia.gov

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, October 1, 2024 9:28 AM
To: Beverly Walkup; Richard Douglas
Subject: Fwd: Timberland Solar
Attachments: Stop Work Order Goosepond Solar (1) (1).pdf; Notice of Violation (1).pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Again, this came back as undelivered to both of you- don't know why but trying again.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 1, 2024 at 9:18:46 AM EDT
To: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>
Subject: Fwd: Timberland Solar

I'm forwarding this to you since my initial email came back as undelivered to you. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: October 1, 2024 at 9:16:05 AM EDT
To: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, Kerrine.Bryan@rwe.com, deltea@aol.com, rotttrucks@aol.com, Richard Douglas <rdouglas@sussexcountyva.gov>, jlebigfoot@gmail.com, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Michael Poarch <mpoarch@sussexcountyva.gov>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler <rtyler@impassoc.org>
Subject: Timberland Solar

Here is a copy of the Cease and Desist Order I received from Mr. Sharpe in Georgia to confirm the information previously provided. This confirms the lack of a timely response by RWE.

The order speaks for itself and I again ask Mrs. Walkup and/or Mr. Douglas to contact Mr. Sharpe which he asked to be fine to get the details and background on this.

Sent from my iPhone

Begin forwarded message:

From: Jeff Sharp <jsharp@oglethorpecountyga.gov>
Date: October 1, 2024 at 9:08:41 AM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: **Timberland Solar**

Attached is the requested information

Thanks

--

Jeff Sharp
Director
Planning and Zoning
Code Compliance
jsharp@oglethorpecountyga.gov
compliance@oglethorpecountyga.gov
(706) 743-5270 Direct (706) 330-2755



****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords



OGLETHORPE COUNTY

Planning and Zoning



Jeff Sharp, Director of Planning and Zoning
McKenzie Spooner, County Planner

P.O. Box 261
Lexington, Georgia 30648
Phone: 706-743-5270

Hattie Collins, Permit Specialist
Tim Shelnett, County Inspector

Jan 26, 2024

Kevin Padilla
Manager, Solar Project Management
RWE Clean Energy
100 Summit Lake Drive, Suite 210, Valhalla, NY 10595
Mobile: (914) 446-0301

Good Afternoon Kevin,

Let this letter serve as notice that the Timberland Solar Project located at 1300 Goosepond Road, Carlton, GA has been issued a **Stop Work Order effective immediately**. On January 10, 2024, you were issued a Notice of Violation, with a response due January 25, 2024. No response was received by our office. As per our phone conversation this morning, it is commendable that you have offered to address the issues shown in the Hydrology Study by Carter Engineering for Seth Peabody. This study dealt with a small percentage of the site, but the same issues exist across the *entire* site. Below is taken from the Oglethorpe County Unified Development Code:

Penalties. In the event the applicant or other responsible person fails to correct the violation by the date set forth in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed.

1) Stop Work Order. The Department may issue a Stop Work Order which shall be served on the applicant or other responsible person. A Stop Work Order shall mean that all work on the project must stop unless the work pertains to correcting the violation or installing/maintaining erosion control best management practices in accordance with applicable local ordinances and state law. The Stop Work Order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the Stop Work Order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

2) Withhold Certificate of Occupancy. The Department may request that the Oglethorpe County Building Official refuse to issue a Certificate of Occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

3) Suspension, revocation, or modification of permit. The Department may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified



OGLETHORPE COUNTY

Planning and Zoning



Jeff Sharp, Director of Planning and Zoning
McKenzie Spooner, County Planner

P.O. Box 261
Lexington, Georgia 30648
Phone: 706-743-5270

Hattie Collins, Permit Specialist
Tim Shelnett, County Inspector

permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Department may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4) Monetary penalties. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Section shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

The Stop Work Order and monetary penalties shall be enforced at this time. As you can see from above, revocation or suspension of your development permit is an option. With ongoing flooding and sediment and erosion control issues (which fall under the GAEPD purview), the huge burden the tractor trailer delivery trucks have placed on emergency personnel and the county road department, and the damage to county infrastructure, revocation or suspension is an option we will look at going forward. We trust that you will immediately take action to cure the deficiencies that have caused harm to the adjacent property owners.

Jeff Sharp
Oglethorpe County Planning and Zoning Director



OGLETHORPE COUNTY
Planning and Zoning



Jeff Sharp, Director of Planning and Zoning
McKenzie Spooner, County Planner

P.O. Box 261
Lexington, Georgia 30648
Phone: 706-743-5270

Hattie Collins, Permitting Specialist

January 10, 2024

Kevin Padilla
Manager, Solar Project Management
RWE Clean Energy
100 Summit Lake Drive, Suite 210, Valhalla, NY 10595
Mobile: (914) 446-0301

Good Afternoon,

Over the past year and a half, Timberland Solar has continuously harmed adjoining properties with increased sedimentation and runoff from this project. While erosion and sedimentation fall under the purview of the Georgia Environmental Protection Division, Oglethorpe County has a Stormwater Management Ordinance, which Timberland Solar has violated.

The purpose of this letter is to inform you that Oglethorpe County considers Timberland Solar to be in violation. We expect a plan to address the issues no later than 5pm on January 25, 2024, or the project will be issued a stop work order until the issues are corrected. Please do not hesitate to call with any questions.

Jeff Sharp
Oglethorpe County Planning and Zoning Director

THE HISTORY OF THE

1700-1800

1700-1800

1700-1800

1700-1800

1700-1800

1700-1800

1700-1800

1700-1800

1700-1800

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, September 30, 2024 10:09 PM
To: Richard Douglas; Beverly Walkup
Subject: Fwd: Big Pine Responses - Mr. Diehl

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Sending again since it came back undelivered again.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 30, 2024 at 10:06:47 PM EDT
To: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Michael Poarch <mpoarch@sussexcountyva.gov>, Thomas Baicy <tbaicy@sussexcountyva.gov>, Shilton Ricks Butts <sricks@sussexcountyva.gov>, phyllistolliver2@gmail.com
Subject: Big Pine Responses - Mr. Diehl

See below fyi.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 30, 2024 at 10:05:23 PM EDT
To: Kerrine.Bryan@rwe.com
Cc: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, deltea@aol.com, rotttrucks@aol.com, jlebigfoot@gmail.com, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler <rtyler@impassoc.org>
Subject: Re: Big Pine Responses - Mr. Diehl

I've reread your email below and to the extent I read it as indicating you thought the info I have requested is irrelevant, I think I misread that and for that I apologize. But my comments and concerns about RWE still remain. I look forward to the Wythe/DEQ consent order.

Sent from my iPhone

On Sep 30, 2024, at 8:29 PM, Lawrence Diehl
<ldiehl@barnesfamilylaw.com> wrote:

Thank you but no matter how many employees you have all around the world-they probably don't live in Sussex County and are not familiar with our distance requirements in our Comprehensive Plan which must be complied with per our state and local zoning and CUP ordinances. As I've said over and over, your distances are so noncompliant with are Plan so as to make this proposed project dead on arrival.

And the information about the problems RWE has had in Georgia and Wythe County, Va is absolutely relevant in reflecting how other RWE solar farms have had significant environmental problems reflecting on your company and lack of transparency. Quite frankly, I was shocked how bad the problems were in RWE's solar farm in Georgia after speaking personally with their zoning director and Commissioner. They both were extremely critical of RWE and said their actions had ruined the lands of many landowners. I was also shocked at how much worse this was than the attempt by your rep at the neighborhood meeting to minimize any problems.

As their zoning director, Jeff Sharpe, told me personally after I accurately summarized what your rep said had happened in Georgia, he said "that was the most inaccurate statement he had ever heard." So it's no wonder you apparently want to avoid our county into looking into the real facts reflecting in your company in other RWE solar projects. Guess you didn't plan on little ole Sussex county having an experienced attorney who has actually figured out what RWE is really all about.

So my "queries" are absolutely relevant to this project, and your implication they may not be relevant merely confirms your lack of transparency and attempt to avoid factors our planning department should clearly consider. I guess I understand why you don't want our county to know the problems RWE has caused in other locations. To say it is irrelevant is quite disturbing.

And I'd invite you to call the zoning director in Oglethorpe County Ga, Jeff Sharpe, their zoning director, as I did, so you can understand how bad RWE is in their county. These problems and lack of RWE's cooperation in timely resolving them is exactly

relevant to and the reason our county planning department must consider RWEs experience which we would also be faced with. Call Jeff- he'll tell you.

So please get me a copy of the DEQ consent order relating to your Wythe County project asap. Thank you.

Sent from my iPhone

On Sep 30, 2024, at 7:55 PM,
Kerrine.Bryan@rwe.com wrote:

-NOT ENCRYPTED-

Mr. Diehl,

I am currently reviewing your emails and will provide a response this week. Many of the queries are not specific to the Big Pine project, so I am coordinating with our various divisions to gather the necessary information.

With over 20,000 employees worldwide and 2,000 in the US, as well as hundreds of successful operating assets, we are well-equipped to address your inquiries. However, please bear with me as I compile the responses.

Regards

Kerrine Bryan
Senior Manager, Utility Scale Development – East

RWE Clean Energy
100 Summit Lake Drive, Valhalla, NY 10595
Tel.: +1 (872) 335-6176
Email: kerrine.bryan@rwe.com
rwecleanenergy.com

****WARNING****

This email originated from outside of the Barnes & Diehl email network.

DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS

unless you recognize the sender, solicited the information and know the content is safe.

NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, September 30, 2024 8:31 PM
To: Richard Douglas; Beverly Walkup
Cc: Thomas Baicy; phyllistolliver2@gmail.com
Subject: Fwd: Big Pine Responses - Mr. Diehl

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

I'm sending this to you so that it hopefully won't come back as undelivered- please see the below.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 30, 2024 at 8:29:04 PM EDT
To: Kerrine.Bryan@rwe.com
Cc: tmassenburg29@gmail.com, shands301@gmail.com, rogerking33@gmail.com, deltea@aol.com, ptolliver@sussexcountyva.com, rotttrucks@aol.com, jlebigfoot@gmail.com, Wayne Jones <jonesfamily2@msn.com>, Andy Mayes <amayes@commonwealthenvironmental.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Eric Fly <cefly@icloud.com>, Frances Chambers <fchambers@nsacademy.org>, Franklin Cox <Fcox59@gmail.com>, Kevin Bracy <bornajunker@hotmail.com>, Michael Poarch <mpoarch@sussexcountyva.gov>, Molly Dowless <brickhill1747@gmail.com>, Otto Wachsmann <owachsmann@yahoo.com>, Rufus Tyler <rtyler@impassoc.org>, Shilton Ricks Butts <sricks@sussexcountyva.gov>
Subject: Re: Big Pine Responses - Mr. Diehl

Thank you but no matter how many employees you have all around the world-they probably don't live in Sussex County and are not familiar with our distance requirements in our Comprehensive Plan which must be complied with per our state and local zoning and CUP ordinances. As I've said over and over, your distances are so noncompliant with are Plan so as to make this proposed project dead on arrival.

And the information about the problems RWE has had in Georgia and Wythe County, Va is absolutely relevant in reflecting how other RWE solar farms have had significant environmental problems reflecting on your company and lack of transparency. Quite frankly, I was shocked how bad the problems were in RWE's solar farm in Georgia after speaking personally with their zoning director and Commissioner. They both were extremely critical of RWE and said their actions had ruined the lands of many landowners. I was also shocked at how much worse this was than the attempt by your rep at the neighborhood meeting to minimize any problems.

As their zoning director, Jeff Sharpe, told me personally after I accurately summarized what your rep said had happened in Georgia, he said "that was the most inaccurate statement he had ever heard." So it's no wonder you apparently want to avoid our county into looking into the real facts

reflecting in your company in other RWE solar projects. Guess you didn't plan on little ole Sussex county having an experienced attorney who has actually figured out what RWE is really all about.

So my "queries" are absolutely relevant to this project, and your implication they may not be relevant merely confirms your lack of transparency and attempt to avoid factors our planning department should clearly consider. I guess I understand why you don't want our county to know the problems RWE has caused in other locations. To say it is irrelevant is quite disturbing.

And I'd invite you to call the zoning director in Oglethorpe County Ga, Jeff Sharpe, their zoning director, as I did, so you can understand how bad RWE is in their county. These problems and lack of RWE's cooperation in timely resolving them is exactly relevant to and the reason our county planning department must consider RWE's experience which we would also be faced with. Call Jeff- he'll tell you.

So please get me a copy of the DEQ consent order relating to your Wythe County project asap. Thank you.

Sent from my iPhone

On Sep 30, 2024, at 7:55 PM, Kerrine.Bryan@rwe.com wrote:

-NOT ENCRYPTED-

Mr. Diehl,

I am currently reviewing your emails and will provide a response this week. Many of the queries are not specific to the Big Pine project, so I am coordinating with our various divisions to gather the necessary information.

With over 20,000 employees worldwide and 2,000 in the US, as well as hundreds of successful operating assets, we are well-equipped to address your inquiries. However, please bear with me as I compile the responses.

Regards

Kerrine Bryan
Senior Manager, Utility Scale Development – East

RWE Clean Energy
100 Summit Lake Drive, Valhalla, NY 10595
Tel.: +1 (872) 335-6176

Email: kerrine.bryan@rwe.com
rwecleanenergy.com

****WARNING****

This email originated from outside of the Barnes & Diehl email network.

DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is
safe.

NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, September 30, 2024 1:51 PM
To: Beverly Walkup
Subject: Re: Big Pines- Memo

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

👉
Sent from my iPhone

On Sep 30, 2024, at 1:49 PM, Beverly Walkup <bwalkup@sussexcountyva.gov> wrote:

Received. Thank you.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Monday, September 30, 2024 12:11 PM
To: Richard Douglas <rdouglas@sussexcountyva.gov>; Beverly Walkup <bwalkup@sussexcountyva.gov>
Subject: Fwd: Big Pines- Memo

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Trying to send this again. The last one came back undelivered. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 30, 2024 at 12:00:59 PM EDT
To: rdouglas@sussexcountyva.gov, bwalkup@sussexcountyva.gov,
cefly@icloud.com, rotttrucks@aol.com, rtyler@impassoc.org,
phyllistolliver2@gmail.com, steve.white@dbhds.virginia.gov,
jonesfamily2@msn.com, rogerking33@gmail.com, tmassenburg29@gmail.com,
jlebigfoot@gmail.com, amayes@commonwealthenvironmental.com,
shands301@gmail.com
Cc: Frances Chambers <fchambers@nsacademy.org>, Molly Dowless
<brickhill1747@gmail.com>, Franklin Cox <Fcox59@gmail.com>,

amcphaul@town.waverlyva.us, owachsmann@yahoo.com

Subject: Big Pines- Memo

I just spoke with Jeff Sharpe (706-401-8137) who is the zoning director at Oglethorpe County, Georgia and is the person in charge of their zoning issues. I went over our situation with him regarding the info I got from the neighborhood meeting last week.

First, he agreed with everything Mr. Sanders stated. But he even went further in saying RWE Clean Energy had "ruined" the land of many landowners, that the sub contractors they had used were terrible and later had to be fired, and RWE was still not compliant with their cease and desist order 9 months after entry of their order.

And when I told him what the RWE rep had said at the neighborhood meeting that the runoff problem wasn't that bad or something to that affect (that was what the RWE rep said or implied), here is exactly what he said and said I could share this with all of you. He said : "That's the most inaccurate thing I've ever heard". He was even more negative on RWE than the Commissioner I spoke to on Friday and gave me more details of problems, including water runoff's due to problems with their solar panels runoffs themselves, that has ruined (his words- not mine) the property of many land owners.

In fact, he said that our county zoning people should call him- he actually invited the calls- so he could tell them all of the problems and more technical issues- that he has experienced with RWE.

Based on this, once again I URGE the county to NOT recommend approval of this project and to condition ANY solar applicant to give the exact names of all subcontractors as a condition of any approval to avoid the issues they experienced with RWE and which we similarly experienced with Waverly Solar. And this also shows that RWE does not construct or operate their projects themselves- at least on this one - which is what they have said in their website for this project and other recent communications.

Mrs. Walkup and Mr. Douglas- you really need to call him in all of this. The info at the neighborhood meeting we got on the RWE Georgia project completed attempted to diminish the actual facts and damage they have caused there and their lack of cooperation in resolving it.

BASED ON HIS STRONG INVITATION AND THE NEED OF OUR COUNTY TO GET THE FACTS ABOUT RWE- I ASK THAT BOTH MRS. WALKUP AND MR. DOUGLAS CALL MR. SHARPE AT HIS NUMBER ABOVE. He told me he really wants to discuss RWE with you before you decide any issues with RWE. I hope you will do this ASAP to do your due diligence in getting all the facts on RWE.

THANK YOU!

****WARNING****

This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or **DO NOT OPEN ANY ATTACHMENTS**
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Sunday, September 29, 2024 12:04 PM
To: Richard Douglas; Beverly Walkup; Eric Fly; rotttrucks@aol.com; 'Rufus Tyler'; phyllistolliver2@gmail.com; steve.white@dbhds.virginia.gov; jonesfamily2@msn.com; rogerking33@gmail.com; tmassenburg29@gmail.com; jlebigfoot@gmail.com; 'amayes@commonwealthenvironmental.com'; shands301@gmail.com
Cc: Frances Chambers; Molly Dowless; Franklin Cox; amcphaul@town.waverlyva.us; 'Otto Wachsmann'
Subject: Big Pines- Memo
Attachments: Memo- RWE Cease and Desist Order- Oglethorpe GA.pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

I have revised the Memo by size and font so it is easier to read. Hopefully this helps- thank you.

Mrs. Walkup- please make this revised memo a part of the record in this matter- thank you.

MEMO- RWE CEASE AND DESIST ORDER- OGLETHORPE GEORGIA AND DEQ ORDER IN WYTHE COUNTY, VA

Shilton- please make this MEMO part of the record.

I had previously provided to you, information about problems RWE CLEAN ENERGY have in Oglethorpe County, Georgia. An article summarizing their runoff and environmental problems and lack of cooperation is attached again for your review.

At last night's neighborhood meeting, I asked the main representative- Mrs. Bryan- about these concerning issues. RWE's counsel- Mr. Romine with WilliamsMullins- a very nice and professional gentleman in his comments- and another RWE representative were present. The other rep stated that- yes- she was familiar with the cease and desist order entered on JANUARY 26, 2024. When I asked her if the order was still in effect- her response was typical of the evasiveness and lack of transparency shown by RWE (eg. They verified the project is 2.3 miles from Waverly but their website misleads the public saying it's "approximately 3 miles"- 2.3 is not even close- you've seen my memos in this and their failure to disclose on their public website anything about their project being within 2 miles of 2 other projects- hiding this critical fact) - the rep responded by saying they were working with the county and working things out. I then said that wasn't my question, so I pressed her on this and asked- was the order still in effect- YES OR NO- a pretty simple question. Once again, she said they were working on. As I then recall even Mr. Romine jumped in and himself asked this rep if the order was still in effect.

She finally said yes, but it was only temporary. What I said? Temporary for 9 months since last January? So, this order IS still in effect so I hope the Planning Department seriously considers their attempt to not be transparent on this issue as well as the fact that they have serious problems in their other solar operation. We certainly don't want another Waverly Solar cesspool in our county and I live in Waverly and we don't need a third solar farm right on the doorsteps of Waverly- exactly why we have the 3-mile limit preference in our planning guidelines.

But to really get to the bottom of this, I wanted to get the real facts of this issue. So, on Friday morning I called and spoke personally with a Howard Sanders- he is a Commissioner (the equivalent of our Board of Supervisors) in Oglethorpe County, Georgia and here is what he told me. He was very open and cooperative.

First, yes, the cease and desist order from January- 9 months ago limiting the operation to ONLY resolving the problems- but not in operation- IS STILL IN EFFECT.

Second, he confirmed without hesitation that RWE Clean Energy (same applicant as here in Sussex) was very slow and not very cooperative in addressing their environmental problems. Again, this was verified by this Commissioner himself.

Third, he told me that even after 9 months, there were still problems that RWW had not completed and were still outstanding. Honestly, his tone was one of frustration with RWE. Not resolved 9 months later? Sussex wants such a company?

And fourth, the problems were not just minor runoff problems as implied by the rep last night. No - he was very clear and forceful in his tone that RWE has completely ruined a lake or pond on the owner's property due to excessive runoffs far in excess of what they promised to limit and that this was a serious problem. Again, he would know and his tone was very critical of RWE.

So, RWEs attempt to minimize these problems last night should really raise a red flag about their transparency and how they will likely be uncooperative in dealing with operation problems and timely addressing problems here in Sussex. We don't need such a company in our county and I hope Mrs. Walkup agrees based on facts which I verified and which are not speculative.

I am in the process of getting an actual copy of the cease and desist order. I'll share this order with everyone when I get it.

And in response to a question about any other problems or similar orders, Mrs. Bryan- the project manager, said they also had a noncompliance consent order with the DEQ entered in a project they have in Wythe County, Virginia- I will be following up on that to get the details, but 2 noncompliance orders already do not speak well to how their projects are run. I hope the Planning Department considers these issues apart from all the distance issues that our totally noncompliant with our Comprehensive Plan.

Here is a copy of her communication on that:

From: Kerrine.Bryan@rwe.com <Kerrine.Bryan@rwe.com>
Sent: Thursday, September 26, 2024 11:57 AM

To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

Subject: RE: Big Pine Solar Farm | Contact for

Mr. Diehl

In response to your query.

There was a consent order for RWE's Wythe County Solar Project. We have worked closely with the Virginia Department of Environmental Quality to address the impacts mentioned in the Consent Order and we are continuing to engage with them on the project. Being a good environmental steward is a priority for us and we are continuing to improve our project designs to mitigate environmental impacts. Our construction team is onsite every day working diligently to ensure the project is built safely and in an environmentally responsible way.

Regards

Kerrine Bryan"

Good stewards of environmental issues? Sure doesn't sound like that to me and this adds to the confirmation that approving this will be another Waverly cesspool.

But I really hope that our planning department and Mrs. Walkup - apart from what should be a **DEAD ON ARRIVAL** application due to the distance issues which will really ruin our county and if approved would set a terrible precedent - considers the history of problems and lack of cooperation of RWE in their operations in Georgia. I hope you join me in having serious concerns about how bad they implement projects- we should not want such a company in our county especially in light of the Waverly Solar fiasco. And all of this was confirmed by the Oglethorpe Commissioner who I personally spoke to.

And finally, RWE also confirmed that they were denied applications for solar projects recently in our neighbor **Prince George County and Mecklenburg County, Virginia** (and they've filed a lawsuit against that county which- based on the standard of review in appellate cases- probably has little chance of success) I think they've had denial problems in other areas but I'll supplement this, such as a reported application withdrawal in Dinwiddie county and problems in Suffolk.

I hope our county - at least on RWE Clean Farms- gets it and recommends the denial of this application.

FINALLY-MRS. WALKUP- WOULD YOU PLEASE SEND ME A COPY OF THE REPORT OF THE PLANNING DEPARTMENT AND ITS RECOMMENDATION BEFORE ANY PUBLIC HEARING ON THIS

APPLICATION? Thank you so much- you've been very cooperative and I hope my research on RWE has and will be helpful.

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/9Q8Jmr6vARcvTVz6A>

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Sunday, September 29, 2024 11:48 AM
To: Richard Douglas; Beverly Walkup; Eric Fly; rotttrucks@aol.com; 'Rufus Tyler'; phyllistolliver2@gmail.com; steve.white@dbhds.virginia.gov; jonesfamily2@msn.com; rogerking33@gmail.com; tmassenburg29@gmail.com; jlebigfoot@gmail.com; 'amayes@commonwealthenvironmental.com'; shands301@gmail.com
Cc: Molly Dowless; Frances Chambers; Franklin Cox; amcphaul@town.waverlyva.us; 'Otto Wachsmann'; Kerrine.Bryan@rwe.com; sromine@williamsmullen.com
Subject: RE: Memo- Cease and Desist Order to RWE- Oglethorpe Ga- Big Pines Project
Attachments: Memo- RWE Cease and Desist Order- Oglethorpe GA.pdf

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Attached is the memo I send recently, but I've increased the size and font to make it easier to read. Hope this help. Mrs. Walkup- Please make the attached part of the record- thank you.

From: Lawrence Diehl
Sent: Sunday, September 29, 2024 9:58 AM
To: 'rdouglas@sussexcountyva.gov' <rdouglas@sussexcountyva.gov>; 'bwalkup@sussexcountyva.gov' <bwalkup@sussexcountyva.gov>; 'cefly@icloud.com' <cefly@icloud.com>; 'rotttrucks@aol.com' <rotttrucks@aol.com>; 'rtyler@impassoc.org' <rtyler@impassoc.org>; 'phyllistolliver2@gmail.com' <phyllistolliver2@gmail.com>; 'steve.white@dbhds.virginia.gov' <steve.white@dbhds.virginia.gov>; 'jonesfamily2@msn.com' <jonesfamily2@msn.com>; 'rogerking33@gmail.com' <rogerking33@gmail.com>; 'tmassenburg29@gmail.com' <tmassenburg29@gmail.com>; 'jlebigfoot@gmail.com' <jlebigfoot@gmail.com>; 'amayes@commonwealthenvironmental.com' <amayes@commonwealthenvironmental.com>; 'shands301@gmail.com' <shands301@gmail.com>
Cc: 'Molly Dowless' <brickhill1747@gmail.com>; 'Frances Chambers' <fchambers@nsacademy.org>; 'Franklin Cox' <fcox59@gmail.com>; 'amcphaul@town.waverlyva.us' <amcphaul@town.waverlyva.us>; 'owachsmann@yahoo.com' <owachsmann@yahoo.com>
Subject: Memo- Cease and Desist Order to RWE- Oglethorpe Ga- Big Pines Project

I've attached a memo I have done on both the Oglethorpe Ga cease and desist order and another order issued by DWE's Wythe County project. I have tried to e-mail you this memo but the WIFI was out most of the weekend so I hope you get this one. Please, please read this memo carefully since I have independently confirmed the serious problems Oglethorpe Ga had and continues to have with RWE. They will tell us all is good, but I personally spoke to one of their Commissioners (similar to our Board) and he gave me the real facts on this- much more serious than how it was described at the neighborhood meeting Thursday night. So again, please review this- this is very important so all of you can see who we are dealing with and their continued lack of transparency.

Thank you.

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Sunday, September 29, 2024 9:05 AM
To: Kerrine.Bryan@rwe.com
Cc: Richard Douglas; Beverly Walkup
Subject: RE: Big Pine Solar Farm | Contact form

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

See below. My earlier message came back as undeliverable.
Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 29, 2024 at 8:54:45 AM EDT
To: Kerrine.Bryan@rwe.com
Cc: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, Eric Fly <cefly@icloud.com>, Thomas Baicy <tbaicy@sussexcountyva.gov>, rotttrucks@aol.com, Rufus Tyler <rt Tyler@impassoc.org>, ptolliver@sussexcountyva.com, Wayne Jones <jonesfamily2@msn.com>, sromine@williamsmullin.com, Shilton Ricks Butts <sricks@sussexcountyva.gov>, Steve White <steve.white@dbhds.virginia.gov>, Andy Mayes <amayes@commonwealthenvironmental.com>, tmassenburg29@gmail.com, shands301@gmail.com,
Subject: Re: Big Pine Solar Farm | Contact form

Mrs. Bryan: We were out of WiFi for the past few days but I'm back on now. So I checked my spam filter this morning and it had blocked your emails since it showed they originated from Germany. That was the problem and I've now received your emails and I've added your email to my unblocked list. So once again I do apologize for believing I had not received them, but I don't know why your emails show a Germany origin, but that's what happened. Hopefully we're good from here.

As to your comments below, I am an attorney and certainly know what is required. But to get approval of any zoning or CUP, it still requires "substantial compliance" with our Comprehensive Plan and the fact it is not an ordinance is not the issue. Our distance requirements are clear and the failure to even come close to meeting our Plan (and no reasonable person could ever believe 2.3 miles is 'approximately' 3 miles as this misleads the public in your website that most of the public would rely on) makes this project dead on arrival. And that is apart from also not meeting the 2 mile Plan requirement of being distant from not just one but two other solar farms. That is another key factor your website has not even shown, again reflecting on the lack of transparency of RWE. I ask you to update your website to accurately state that critical information. If it is not updated, I will certainly address RWE's pattern of misleading information to the planners and Board at any public hearing.

And if you don't believe the compliance with our Plan distances is important, you were not at the public hearings on the Blackwater solar project near Wakefield. The failure of the plan to meet only the 3 mile distance from that town (and as I recall it was 2.5 miles- farther out than your) was the most important factor stated by a number of those on the Planning Commission and Board in voting to defeat this project overwhelmingly. That's why this RWE project should be dead on arrival. We simply don't need a glut of solar farms- 3 counting yours- near the town where I live.

Thank you.

Sent from my iPhone

On Sep 29, 2024, at 8:27 AM, Kerrine.Bryan@rwe.com wrote:

-NOT ENCRYPTED-

Mr Diehl,

Please see responses below:

1. Per our current design (which is subject to change pending CUP requirements and additional field surveys), the nearest fence is 2.3 miles away from the town of Waverly. Although 4,506 acres of land are secured, only 1,648 acres are fenced in and 950 acres are under panels. A preliminary layout will be available at the neighborhood meeting, and we will be happy to discuss it with you. The 3-mile distance to the town is an element of the Comprehensive Plan and is not required by County code. Although a small portion of the proposed project falls within the 3-mile town setback, the project substantially complies with the Comprehensive Plan.
2. RWE is the second-largest owner/operator of solar in North America. For that reason, our business model focuses on long-term ownership of these projects. RWE typically develops, operates, and owns its projects for the long term. It fully expects to do the same for Big Pine.
3. See the response above.

Kerrine Bryan
Senior Manager, Utility Scale Development – East

RWE Clean Energy
100 Summit Lake Drive, Valhalla, NY 10595
Tel.: +1 (872) 335-6176
Email: kerrine.bryan@rwe.com
rwecleanenergy.com

From: RWE in America <noreply@rwe.com>
Sent: Thursday, September 19, 2024 11:49 AM
To: Bryan, Kerrine <Kerrine.Bryan@rwe.com>; Kaso, Tory <Tory.Kaso@rwe.com>
Subject: Big Pine Solar Farm | Contact form

Hello,

the following enquiry has been received via the form on
<https://link.edgepilot.com/s/f47bd4ad/ePud2zfUfUOzQ3e5Q3lZaw?u=https://americas.rwe.com/our-energy/solar-energy/solar-projects-and-locations/big-pine-solar-farm/>:

Enquiry:

Subject *: Compliance with solar code

Message *: I am Lawrence Diehl- i have practiced law for 50 years in Virginia- and i live in the Town of Waverly, Va. I plan to be at the Sept. 26 th neighborhood meeting. My initial questions are as follows: 1. Your summary of the project says it is "approximately" 3 miles from Waverly. It either is or is not within 3 miles of town limits- our code requires any project to be at least 3miles from our town limits." "Approximately" tells us nothing on that. So is ANY PART of the project within 3 miles of the town limits of Waverly- that is required and even close to that, say 2.9 miles, would not comply. Let me know that before the meeting. 2. If approved, will this project be assigned to any other entity and if so- who and when would that be done. 3. If assigned. would you agree to put into any siting agreement that any assignment would be subject to the approval of the Board since the county should know the experience and integrity of any assignee whether for construction or long term operation. Thank you.

Sent by:

Name *: Lawrence

Last name *: Diehl

Company: Citizen of Sussex County and attorney

Would like to be contacted by *: Email

Email address: ldiehl@barnesfamilylaw.com

Phone: 804-763-9631

Street: 147 Coppahaunk Avenue

City: Waverly. 23890

State: Virginia (VA)

Fields marked with * are mandatory fields. Fields that are not filled in the form are left blank in this e-mail.

Links contained in this email have been replaced. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

****WARNING****

**This email originated from outside of the Barnes & Diehl email network.
DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS
unless you recognize the sender, solicited the information and know the content is safe.
NEVER give out any user names, pins and/or passwords**

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, September 28, 2024 1:30 PM
To: Richard Douglas; Beverly Walkup; tmassenburg29@gmail.com; Thomas Baicy; ptolliver@sussexcountyva.com; shands301@gmail.com; rogerking33@gmail.com; deltea@aol.com; jlebigfoot@gmail.com; Michael Poarch; rotttrucks@aol.com; 'Rufus Tyler'; Wayne Jones; Andy Mayes; Kevin Bracy; Shilton Ricks Butts; Eric Fly
Cc: Franklin Cox; Angela McPhaul; 'Otto Wachsmann'; kerrine.bryan@rwe.com; kate.williams@rwe.com; Molly Dowless; Frances Chambers; sromine@williamsmullin.com; meg.bane@rwe.com; kate.williams@rwe.com; tort.kaso@rwe.com
Subject: Fwd: Big Pines-County to solar farm: Stop work | The Oglethorpe Echo

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Had WiFi issues last 2 days so I'm sending this again. Thank you.
Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 27, 2024 at 11:22:49 AM EDT
To: Richard Douglas <rdouglas@sussexcountyva.gov>, Beverly Walkup <bwalkup@sussexcountyva.gov>, tmassenburg29@gmail.com, Thomas Baicy <tbaicy@sussexcountyva.gov>, ptolliver@sussexcountyva.com, shands301@gmail.com, rogerking33@gmail.com, deltea@aol.com, jlebigfoot@gmail.com, Michael Poarch <mpoarch@sussexcountyva.gov>, rotttrucks@aol.com, Wayne Jones <jonesfamily2@msn.com>, Rufus Tyler <rtyler@impassoc.org>, Andy Mayes <amayes@commonwealthenvironmental.com>, Kevin Bracy <bornajunker@hotmail.com>, Shilton Ricks Butts <sricks@sussexcountyva.gov>, Eric Fly <cefly@icloud.com>
Cc: Franklin Cox <Fcox59@gmail.com>, Angela McPhaul <amcphaul@town.waverlyva.us>, Otto Wachsmann <owachsmann@yahoo.com>, Kerrine.Bryan@rwe.com, Molly Dowless <brickhill1747@gmail.com>, Frances Chambers <fchambers@nsacademy.org>, sromine@williamsmullin.com, Meg.Bane@rwe.com, Kate.Williams@rwe.com, tort.kaso@rwe.com
Subject: Big Pines-County to solar farm: Stop work | The Oglethorpe Echo

Shilton- please make this email part of the record.

I had previously provided to you information about problems RWE CLEAN ENERGY have in Oglethorpe County, Georgia. An article summarizing their runoff and environmental problems and lack of cooperation is attached again for your review.

At last night's neighborhood meeting, I asked the main representative- Mrs Bryan- about these concerning issues. RWE's counsel-Mr. Romine with WilliamsMullins- a very nice and professional gentleman in his comments- and another RWE representative were present. The

other rep stated that- yes- she was familiar with the cease and desist order entered on JANUARY 26, 2024.7 When I asked her if the order was still in effect- her response was typical of the evasiveness and lack of transparency shown by RWE (eg. They verified the project is 2.3 miles from Waverly but their website misleads the public saying it's "approximately 3 miles"- 2.3 is not even close- you've seen my memos in this and their failure to disclose on their public website anything about their project being within 2 miles of 2 other projects- hiding this critical fact) - the rep responded by saying they were working with the county and working things out. I then said that wasn't my question, so I pressed her on this and asked- was the order still in effect- YES OR NO- a pretty simple question. Once again she said they were working on. As I then recall even Mr. Romine jumped in and himself asked this rep if the order was still in effect.

She finally said yes, but it was only temporary. What I said? Temporary for 9 months since last January? So this order IS still in effect so I hope the Planning Department seriously considers their attempt to not be transparent on this issue as well as the fact that they have serious problems in their other solar operation. We certainly don't want another Waverly Solar cess pool in our county and I live in Waverly and we don't need a third solar farm right on the doorsteps of Waverly- exactly why we have the 3 mile limit preference in our planning guidelines.

But to really get to the bottom of this, I wanted to get the real facts of this issue. So this morning I called and spoke personally with a Howard Sanders- he is a Commissioner (the equivalent of our Board of Supervisors) in Oglethorpe County, Georgia and here is what he told me. He was very open and cooperative.

First, yes, the cease and desist order from January- 9 months ago limiting the operation to ONLY resolving the problems- but not in operation- IS STILL IN EFFECT.

Second, he confirmed without hesitation that RWE Clean Energy (same applicant as here in Sussex) was very slow and not very cooperative in addressing their environmental problems. Again , this was verified by this Commissioner himself.

Third, he told me that even after 9 months, there were still problems that RWE had not completed and were still outstanding. Honestly, his tone was one of frustration with RWE. Not resolved 9 months later? Sussex wants such a company?

And fourth, the problems were not just minor runoff problems as implied by the rep last night. No - he was very clear and forceful in his tone that RWE has completely ruined a lake or pond on the owners property due to excessive runoffs far in excess of what they promised to limit and that this was a serious problem. Again, he would know and his tone was very critical of RWE.

So RWE's attempt to minimize these problems last night should really raise a red flag about their transparency and how they will likely be uncooperative in dealing with operation problems and timely addressing problems here in Sussex. We don't need such a company in our county and I hope Mrs. Walkup agrees based on facts which I verified and which are not speculative.

I am in the process of getting an actual copy of the cease and desist order. I'll share this order with everyone when I get it.

But I really hope that our planning department and Mrs. Walkup - apart from what should be a dead on arrival application due to the distance issues which will really ruin our county and if approved would set a terrible precedent - considers the history of problems and lack of cooperation of RWE in their operations in Georgia. I hope you join me in having serious

concerns about how bad they implement projects- we should not want such a company in our county especially in light of the Waverly Solar fiasco. And all of this was confirmed by the Oglethorpe Commissioner who I personally spoke to.

And finally, RWE also confirmed that they were denied applications for solar projects recently in our neighbor Prince George County and Mecklenburg County (and they've filed a lawsuit against that county which- based on the standard of review in appellate cases- probably has little chance of success) I think they've had denial problems in other areas but I'll supplement this, such as a reported application withdrawal in Dinwiddie county and problems in Suffolk.

So I hope our county - at least on RWE Clean Farms- gets it and recommends the denial of this application.

FINALLY-MRS. WALKUP- WOULD YOU PLEASE SEND ME A COPY OF THE REPORT OF THE PLANNING DEPARTMENT AND ITS RECOMMENDATION BEFORE ANY PUBLIC HEARING ON THIS APPLICATION ? Thank you so much- you've been very cooperative and I hope my research on RWE has and will be helpful.

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/9Q8Jmr6vARcvTVz6A>

Sent from my iPhone

The following table shows the results of the regression analysis for the dependent variable 'Sales'.

Variable	Parameter Estimate	Standard Error	t-Statistic	Probability > t
Intercept	10.0000	0.5000	20.0000	0.0000
X1	0.5000	0.1000	5.0000	0.0000
X2	0.2500	0.0500	5.0000	0.0000
X3	0.1250	0.0250	5.0000	0.0000
X4	0.0625	0.0125	5.0000	0.0000
X5	0.0312	0.0062	5.0000	0.0000
X6	0.0156	0.0031	5.0000	0.0000
X7	0.0078	0.0016	5.0000	0.0000
X8	0.0039	0.0008	5.0000	0.0000
X9	0.0019	0.0004	5.0000	0.0000
X10	0.0009	0.0002	5.0000	0.0000
X11	0.0005	0.0001	5.0000	0.0000
X12	0.0002	0.0000	5.0000	0.0000
X13	0.0001	0.0000	5.0000	0.0000
X14	0.0000	0.0000	5.0000	0.0000
X15	0.0000	0.0000	5.0000	0.0000
X16	0.0000	0.0000	5.0000	0.0000
X17	0.0000	0.0000	5.0000	0.0000
X18	0.0000	0.0000	5.0000	0.0000
X19	0.0000	0.0000	5.0000	0.0000
X20	0.0000	0.0000	5.0000	0.0000
X21	0.0000	0.0000	5.0000	0.0000
X22	0.0000	0.0000	5.0000	0.0000
X23	0.0000	0.0000	5.0000	0.0000
X24	0.0000	0.0000	5.0000	0.0000
X25	0.0000	0.0000	5.0000	0.0000
X26	0.0000	0.0000	5.0000	0.0000
X27	0.0000	0.0000	5.0000	0.0000
X28	0.0000	0.0000	5.0000	0.0000
X29	0.0000	0.0000	5.0000	0.0000
X30	0.0000	0.0000	5.0000	0.0000
X31	0.0000	0.0000	5.0000	0.0000
X32	0.0000	0.0000	5.0000	0.0000
X33	0.0000	0.0000	5.0000	0.0000
X34	0.0000	0.0000	5.0000	0.0000
X35	0.0000	0.0000	5.0000	0.0000
X36	0.0000	0.0000	5.0000	0.0000
X37	0.0000	0.0000	5.0000	0.0000
X38	0.0000	0.0000	5.0000	0.0000
X39	0.0000	0.0000	5.0000	0.0000
X40	0.0000	0.0000	5.0000	0.0000
X41	0.0000	0.0000	5.0000	0.0000
X42	0.0000	0.0000	5.0000	0.0000
X43	0.0000	0.0000	5.0000	0.0000
X44	0.0000	0.0000	5.0000	0.0000
X45	0.0000	0.0000	5.0000	0.0000
X46	0.0000	0.0000	5.0000	0.0000
X47	0.0000	0.0000	5.0000	0.0000
X48	0.0000	0.0000	5.0000	0.0000
X49	0.0000	0.0000	5.0000	0.0000
X50	0.0000	0.0000	5.0000	0.0000
X51	0.0000	0.0000	5.0000	0.0000
X52	0.0000	0.0000	5.0000	0.0000
X53	0.0000	0.0000	5.0000	0.0000
X54	0.0000	0.0000	5.0000	0.0000
X55	0.0000	0.0000	5.0000	0.0000
X56	0.0000	0.0000	5.0000	0.0000
X57	0.0000	0.0000	5.0000	0.0000
X58	0.0000	0.0000	5.0000	0.0000
X59	0.0000	0.0000	5.0000	0.0000
X60	0.0000	0.0000	5.0000	0.0000
X61	0.0000	0.0000	5.0000	0.0000
X62	0.0000	0.0000	5.0000	0.0000
X63	0.0000	0.0000	5.0000	0.0000
X64	0.0000	0.0000	5.0000	0.0000
X65	0.0000	0.0000	5.0000	0.0000
X66	0.0000	0.0000	5.0000	0.0000
X67	0.0000	0.0000	5.0000	0.0000
X68	0.0000	0.0000	5.0000	0.0000
X69	0.0000	0.0000	5.0000	0.0000
X70	0.0000	0.0000	5.0000	0.0000
X71	0.0000	0.0000	5.0000	0.0000
X72	0.0000	0.0000	5.0000	0.0000
X73	0.0000	0.0000	5.0000	0.0000
X74	0.0000	0.0000	5.0000	0.0000
X75	0.0000	0.0000	5.0000	0.0000
X76	0.0000	0.0000	5.0000	0.0000
X77	0.0000	0.0000	5.0000	0.0000
X78	0.0000	0.0000	5.0000	0.0000
X79	0.0000	0.0000	5.0000	0.0000
X80	0.0000	0.0000	5.0000	0.0000
X81	0.0000	0.0000	5.0000	0.0000
X82	0.0000	0.0000	5.0000	0.0000
X83	0.0000	0.0000	5.0000	0.0000
X84	0.0000	0.0000	5.0000	0.0000
X85	0.0000	0.0000	5.0000	0.0000
X86	0.0000	0.0000	5.0000	0.0000
X87	0.0000	0.0000	5.0000	0.0000
X88	0.0000	0.0000	5.0000	0.0000
X89	0.0000	0.0000	5.0000	0.0000
X90	0.0000	0.0000	5.0000	0.0000
X91	0.0000	0.0000	5.0000	0.0000
X92	0.0000	0.0000	5.0000	0.0000
X93	0.0000	0.0000	5.0000	0.0000
X94	0.0000	0.0000	5.0000	0.0000
X95	0.0000	0.0000	5.0000	0.0000
X96	0.0000	0.0000	5.0000	0.0000
X97	0.0000	0.0000	5.0000	0.0000
X98	0.0000	0.0000	5.0000	0.0000
X99	0.0000	0.0000	5.0000	0.0000
X100	0.0000	0.0000	5.0000	0.0000

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Wednesday, September 25, 2024 9:34 AM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; Michael Poarch; rotttrucks@aol.com; 'Rufus Tyler'; Richard Douglas; Andy Mayes; Frances Chambers; Kevin Bracy; Molly Dowless; Eric Fly; Shilton Ricks Butts; Thomas Baicy; Beverly Walkup
Subject: Re: Big Pine Solar Project

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Here is some further info resulting from last night's virtual neighborhood meeting. If you have checked out the Big Pines project website, it says the project is "approximately" "3 miles" from the Town of Waverly where I live- implying to the public that the project complies with the 3 mile from any town distance requirement of our county solar ordinance. Further, nothing in their site shows that the project is within 2 miles from both Waverly Solar and Cabin Point Solar. Mrs Walkup was kind enough to confirm that this project is not 2 miles from these projects but is within that distance- thus 2 more reasons this project does not comply and should be rejected. As a Waverly resident I sure don't want a glut of such farms anywhere close to the town.

Well, at last night's virtual meeting, during their initial presentation it was once again stated by the Big Pines representatives that the project is "approximately" 3 miles from Waverly. They were silent about their noncompliance with other solar projects.

So the only question of mine that they did answer (and as stated below, they refused to answer other legitimate questions and lied that there were no more questions) was "What is the distance of the project from Waverly?"

The specific response was "2.3" miles. Now how 2.3 miles is "approximately" 3 miles is incomprehensible and confirms they are doing all they can to misrepresent the actual facts to the public.

So I'd ask anyone reading this e-mail to raise your hand if you think 2.3 miles is close to 3 miles? Silence- no hands raised-I'm sure.

But besides their attempt to misrepresent their compliance to the public, the point I hope all of you agree with is that whether the distance is 2.3 miles, 2.7 miles or even 2.99 miles- our ordinance is clear requiring 3 miles of distance and nothing less. Our laws are not like the game of horseshoes where getting close gets points. If for some reason this project is approved, all of the years of work in developing our solar requirements would be rendered meaningless. The law should be followed. That approval should never happen.

Thank you.

Sent from my iPhone

On Sep 24, 2024, at 8:38 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

See below. As stated, I don't understand why RWE failed to respond to my questions I sent last week on their site, and tonight they failed to answer all but 1 of the questions I sent which I thought was the purpose of a virtual neighborhood meeting. But even worse, at the end their emcee said there were no more questions. That was a lie. I can only assume they wanted to avoid answers on relevant questions to make their presentation look better. Their stonewalling my questions reflects on their lack of transparency and we clearly can't trust anything they say.

I just wanted you all to know and I will be at the Thursday neighborhood meeting. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 24, 2024 at 7:29:28 PM EDT
To: Kerrine.Bryan@rwe.com
Cc: Tory.Kaso@rwe.com, Meg.Bane@rwe.com, Kate.Williams@rwe.com, cefly@icloud.com, Molly Dowless <brickhill1747@gmail.com>, bwalkup@sussexcountyva.gov, Frances Chambers <fchambers@nsacademy.org>
Subject: FW: Big Pine Solar Project

Mrs. Bryan: This is Lawrence Diehl, a resident of Waverly, Virginia and a practicing attorney in Virginia for 50 years. I have handled more civil appeals - over 100- to the Virginia Court of Appeals than any other attorney in Virginia from my understanding, which is the court where any appeal of a denial of Big Pines would be made. I have drafted and testified as an expert in our Virginia General Assembly on statutory legislation for over 30 years. I merely point this out as background to give credence to my comments which will follow.

I listened to the entire virtual presentation just completed a few minutes ago. I am very amazed and disappointed that most of the questions I sent in- which were acknowledged were received- and some I gave to the verbal operator- were totally ignored and not answered. And even worse, your emcee at the end stated that there were no more questions. That was patently false and I will be clear to bring this out at Thursday's meeting at which I will appear. And further, last week I did exactly what your instructions were- I got on the Big Pines Website- asked at least 2 questions by separate e-mails following all instructions correctly, and received a response that they would be answered promptly. They were not- not a peep-nothing. No response. I sure hope your company does a better job in your communications to our citizens since I am not impressed at all so far.

I had previously provided the county, the Planning Commission members and Board and other interested parties a series of e-mails expressing my concerns about this project. Your failure to respond or answer questions which I thought was the purpose of the virtual neighborhood meeting- makes it more clear our county should have nothing to do with RWE.

Although my comments below which were sent and others I will be forwarding to you which I have shared with the county speak for themselves, the fact that you admitted the distance of the project from Waverly was 2.3 miles, and the information from Mrs. Walkup stating that your plan also violates our solar

distance requirements since your plan is within 2 miles of at least two other solar projects (Waverly which has turned into a cesspool and resulted in a DEQ fine of 6 figures and a strict compliance order) and Cabin Point Solar, makes this entire project dead on arrival. If that is why you didn't want to answer my questions about that I asked both on line and by phone- then the attempt to hide this from the public is unbelievable. But I sure hope you understand our solar requirements for distances can't be ignored and were the result of extensive negotiations, studies and efforts. Your plan violates that clearly and should not go any further.

Accordingly I will be sending you shortly my other research and comments. I will note that the statement by one of your presenters that land values are not impacted by solar farms is false at least around here. Maybe nationally, but I have discussed this issue previously with local real estate agents and there is no question this proposed solar farm and others already operating have reduced the value of my home in Waverly. I would suggest you do your research more accurately and in this specific locality before such misrepresentations are provided to the public. Also- picking this area because of it allegedly being rural is exactly why maintaining its rural character -rather than cutting down extensive timber- is consistent with and mandated by the Comprehensive Plan of both Sussex County generally and the Waverly district specifically. I suggest you read our Plans which have as their priority the maintenance of the decades of the rural heritage and character of our County. I have enjoyed my country drives along Newville Avenue and to see that rural area destroyed is very concerning.

If you want to call me anytime to discuss this and the other issues I will be sending you- my cell is 804-763-9631. Thank you.

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 3:24 PM
To: Beverly Walkup <bwalkup@sussexcountyva.gov>
Cc: Richard Douglas <rdouglas@sussexcountyva.gov>; Molly Dowless <brickhill1747@gmail.com>; Frances Chambers <fchambers@nsacademy.org>; David Conmy <dconmy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Thomas Baicy <tbaicy@sussexcountyva.gov>; rotttrucks@aol.com; Rufus Tyler <rtyler@impassoc.org>; phyllistolliver2@gmail.com; Wayne Jones <jonesfamily2@msn.com>; Steve White <steve.white@dbhds.virginia.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Michael Poarch <mpoarch@sussexcountyva.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds Edwards <linds.edwards@bgllc.net>; tmassenburg29@gmail.com; jlebigfoot@gmail.com; shands301@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; rogerking33@gmail.com
Subject: Re: Big Pine Solar Project

Thank you so much for your prompt reply. I guess that should mean this application should be dead on arrival and I hope the planning department will not deviate from our solar plan requirements which were so carefully crafted after extensive discussions and county approval with these distance requirements. If the

county permits this one, that would open up a flood gate for others who could argue that if you permitted Big Pine, then you must approve us too. That precedent would effectively write out and make our careful negotiated plan requirements meaningless. I hope you and the county will not let that happen.

I certainly know this up to the Planning Commission and Board, but I hope your recommendations follow our plan.

Thank you!

Sent from my iPhone

On Sep 20, 2024, at 2:50 PM, Beverly Walkup
<bwalkup@sussexcountyva.gov> wrote:

Dear Mr. Diehl: Per the project maps for Big Pine, a portion of the project is within 3 miles of the Town of Waverly. The project is also within 2 miles of Cabin Point Solar and Waverly Solar. Sincerely,
Beverly

-----Original Message-----

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 8:38 PM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; Michael Poarch; rotttrucks@aol.com; 'Rufus Tyler'; Richard Douglas; Andy Mayes; Frances Chambers; Kevin Bracy; Molly Dowless; Eric Fly; Shilton Ricks Butts; Thomas Baicy; Beverly Walkup
Subject: Fwd: Big Pine Solar Project

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

See below. As stated, I don't understand why RWE failed to respond to my questions I sent last week on their site, and tonight they failed to answer all but 1 of the questions I sent which I thought was the purpose of a virtual neighborhood meeting. But even worse, at the end their emcee said there were no more questions. That was a lie. I can only assume they wanted to avoid answers on relevant questions to make their presentation look better. Their stonewalling my questions reflects on their lack of transparency and we clearly can't trust anything they say.

I just wanted you all to know and I will be at the Thursday neighborhood meeting. Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 24, 2024 at 7:29:28 PM EDT
To: Kerrine.Bryan@rwe.com
Cc: Tory.Kaso@rwe.com, Meg.Bane@rwe.com, Kate.Williams@rwe.com, cefly@icloud.com, Molly Dowless <brickhill1747@gmail.com>, bwalkup@sussexcountyva.gov, Frances Chambers <fchambers@nsacademy.org>
Subject: FW: Big Pine Solar Project

Mrs. Bryan: This is Lawrence Diehl, a resident of Waverly, Virginia and a practicing attorney in Virginia for 50 years. I have handled more civil appeals - over 100- to the Virginia Court of Appeals than any other attorney in Virginia from my understanding, which is the court where any appeal of a denial of Big Pines would be made. I have drafted and testified as an expert in our Virginia General Assembly on statutory legislation for over 30 years. I merely point this out as background to give credence to my comments which will follow.

I listened to the entire virtual presentation just completed a few minutes ago. I am very amazed and disappointed that most of the questions I sent in- which were acknowledged were received- and some I gave to the verbal operator- were totally ignored and not answered. And even worse, your emcee at the end stated that there were no more questions. That was patently false and I will be clear to bring this out at Thursday's meeting at which I will appear. And further, last week I did exactly what your instructions were- I got on the Big Pines Website- asked at least 2

questions by separate e-mails following all instructions correctly, and received a response that they would be answered promptly. They were not- not a peep- nothing. No response. I sure hope your company does a better job in your communications to our citizens since I am not impressed at all so far.

I had previously provided the county, the Planning Commission members and Board and other interested parties a series of e-mails expressing my concerns about this project. Your failure to respond or answer questions which I thought was the purpose of the virtual neighborhood meeting- makes it more clear our county should have nothing to do with RWE.

Although my comments below which were sent and others I will be forwarding to you which I have shared with the county speak for themselves, the fact that you admitted the distance of the project from Waverly was 2.3 miles, and the information from Mrs. Walkup stating that your plan also violates our solar distance requirements since your plan is within 2 miles of at least two other solar projects (Waverly which has turned into a cesspool and resulted in a DEQ fine of 6 figures and a strict compliance order) and Cabin Point Solar, makes this entire project dead on arrival. If that is why you didn't want to answer my questions about that I asked both on line and by phone- then the attempt to hide this from the public is unbelievable. But I sure hope you understand our solar requirements for distances can't be ignored and were the result of extensive negotiations, studies and efforts. Your plan violates that clearly and should not go any further.

Accordingly I will be sending you shortly my other research and comments. I will note that the statement by one of your presenters that land values are not impacted by solar farms is false at least around here. Maybe nationally, but I have discussed this issue previously with local real estate agents and there is no question this proposed solar farm and others already operating have reduced the value of my home in Waverly. I would suggest you do your research more accurately and in this specific locality before such misrepresentations are provided to the public. Also- picking this area because of it allegedly being rural is exactly why maintaining its rural character -rather than cutting down extensive timber- is consistent with and mandated by the Comprehensive Plan of both Sussex County generally and the Waverly district specifically. I suggest you read our Plans which have as their priority the maintenance of the decades of the rural heritage and character of our County. I have enjoyed my country drives along Newville Avenue and to see that rural area destroyed is very concerning.

If you want to call me anytime to discuss this and the other issues I will be sending you- my cell is 804-763-9631. Thank you.

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

Sent: Friday, September 20, 2024 3:24 PM

To: Beverly Walkup <bwalkup@sussexcountyva.gov>

Cc: Richard Douglas <rdouglas@sussexcountyva.gov>; Molly Dowless

<brickhill1747@gmail.com>; Frances Chambers <fchambers@nsacademy.org>; David Conmy

<dconmy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Thomas Baicy

<tbaicy@sussexcountyva.gov>; rotttrucks@aol.com; Rufus Tyler <rtyler@impassoc.org>;

phyllostolliver2@gmail.com; Wayne Jones <jonesfamily2@msn.com>; Steve White

<steve.white@dbhds.virginia.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Michael

Poarch <mpoarch@sussexcountyva.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds

Edwards <linds.edwards@bgllc.net>; tmassenburg29@gmail.com; jlebigfoot@gmail.com;

shands301@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; rogerking33@gmail.com
Subject: Re: Big Pine Solar Project

Thank you so much for your prompt reply. I guess that should mean this application should be dead on arrival and I hope the planning department will not deviate from our solar plan requirements which were so carefully crafted after extensive discussions and county approval with these distance requirements. If the county permits this one, that would open up a flood gate for others who could argue that if you permitted Big Pine, then you must approve us too. That precedent would effectively write out and make our careful negotiated plan requirements meaningless. I hope you and the county will not let that happen.

I certainly know this up to the Planning Commission and Board, but I hope your recommendations follow our plan.

Thank you!

Sent from my iPhone

On Sep 20, 2024, at 2:50 PM, Beverly Walkup <bwalkup@sussexcountyva.gov> wrote:

Dear Mr. Diehl: Per the project maps for Big Pine, a portion of the project is within 3 miles of the Town of Waverly. The project is also within 2 miles of Cabin Point Solar and Waverly Solar. Sincerely,
Beverly

-----Original Message-----

STATE OF CALIFORNIA
DEPARTMENT OF REVENUE
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
DIVISION OF TAX SERVICES

NOTICE TO TAXPAYER
REGARDING THE
ASSESSMENT OF
PROPERTY TAXES
FOR THE YEAR
ENDING
DECEMBER 31, 2011

Dear Taxpayer:

The following information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

The information is provided to you for your information. It is not intended to constitute an offer of insurance or any other financial product. It is intended to provide you with information regarding the assessment of property taxes for the year ending December 31, 2011.

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:43 PM
To: Kerrine.Bryan@rwe.com
Cc: Kate.Williams@rwe.com; Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Eric Fly; Beverly Walkup
Subject: FW: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

And here are some other comments I have provided to everyone for your consideration.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, September 21, 2024 12:37 PM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; mpoarch@sussexcountyva.gov; rotttrucks@aol.com; rtyler@impassoc.org; Richard Douglas <rdouglas@sussexcountyva.gov>; Andy Mayes <amayes@commonwealthenvironmental.com>; Frances Chambers <fchambers@nsacademy.org>; Kevin Bracy <bornajunker@hotmail.com>; Molly Dowless <brickhill1747@gmail.com>; carl fly <cefly@icloud.com>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>; Beverly Walkup <bwalkup@sussexcountyva.gov>
Subject: Re: County to solar farm: Stop work

To Beverly Walkup and others:

I'd like to address further concerns about RWE to support the denial recommendation of Big Pines application by the Sussex County Planning Department.

What bothers me, and should bother our own county, is not only RWE's failure to comply with their runoff representations causing the environmental damages summarized in Georgia, but RWE's failure to even respond to the violations when first notified. We certainly don't want any solar company approved that shows a lack of compliance and a lack of cooperation or taking prompt action with the county as experienced in Georgia. And I would take the word of the Georgia county officials over the empty excuses of RWE any day as to any factual disputes on their position on the issues.

But even worse, it appears RWE is trying to pass the buck to its "contractors" to resolve the issue- not taking responsibility for the environmental damages themselves. They said they'd get with them to address the issue/ but not themselves. Wow!!

So how is that relevant to the Big Pines application?

Over the past many months I've sent memo after memo to you, the Planning Dept, the Board and Mr. Douglas insisting that before any project is approved, that we know the SPECIFIC IDENTITIES of all subcontractors before any final approval. This would include trucking/delivery contractors (remember about the unlicensed driver who hit a school bus in Isle of Wight) but especially installers and maintenance of the panels. Why? So the county can do its due diligence in looking into each specific contractor as to the history, qualifications, how they hire, etc. The Georgia experience shows exactly why I've been right all along in asking the county to make any applicant for any solar farm project provide the name and identity of their "contractors" so we can determine their credibility. Failure to investigate them would be

irresponsible and would avoid the types of problems experienced in Georgia and which we experienced here in Sussex relating the the Waverly farm fiasco.

Would we want to rely on mere statements by RWE that “oh, they will be just fine” when clearly that did not happen in Georgia. We certainly don’t want RWE’s contractors here in Sussex if we really care about the integrity of any project.

And finally, I don’t know what information or reports you have received from any planners or environmentalists on behalf of RWE. I assume the “bgllc” people you copied by that email are among those providing info. If these “expert” planners are truly ethical and transparent about the experience of RWE and their allegation there will be no environmental concerns, then I assume they have also included in their reports all “relevant” and important information about this and RWE’s -this applicant’s lack of compliance in Georgia, the many denials of their proposed applications for solar farms in other localities such as in Mecklenburg County and many others around Virginia and in other states and other RWE related entities. A cursory review by Google shows many of them.

But if these “experts” were not open and transparent about what SHOULD be relevant and disclosed and did not tell Sussex about this history, then their reports should be considered worthless and a result of being paid for hired guns who I assume are being paid by RWE to say what they want but to hide the real problems I have summarized with RWE. So I ask you and the Planning Dept to give no weight to what I assume are very glossy, but meaningless, reports omitting all that I have summarized herein.

I hope all of this will be helpful in what I hope will be the denial recommendation of this project for all the reasons and prior emails on this and all other issues.

Thank you!

Sent from my iPhone

On Sep 20, 2024, at 10:09 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

To prove my point that solar companies will promise and say anything but then environmental problems occur anyway (eg- Waverly solar cess pool), attached is proof that this applies to RWE Clean Energy itself/ the applicant for Big Pines. RWE promised certain controls if run off but they did not meet their promises in a case in Georgia. RWE was ordered to cease its operations. I assume our own Planning Department knows this, but if not, they need to always research and due diligence to know the history of this company. I did so I hope the county realizes I have been right all along on promises not kept to the detriment of preserving our natural environment. Bottom line: RWE cannot be trusted

And I also found out Mecklenburg County denied RWE or a related RWE company an application for a solar project due to standard concerns. So what did RWE do? Filed a suit now pending alleging “unreasonable arbitrary” denial of the requested zoning amendment. RWE is dangerous and should be really looked at.

And another Google article anyone can look up as I did summarized an extensive public hearing in Dekalb, Illinois (typo?) where RWE Clean Energy - same applicant as Bug Pines- faced many citizens opposing it due to concerns about wildlife protection and RWEs inability to answer a concern about runoff into a local water source. What? They can’t even respond to that? The application hearing was continued and I am not aware of what further results occurred on this.

But I’d really ask our Planning Department and other county resources to investigate RWE since it appears they are not the squeaky “Clean” company that they claim to be.

Although this application should be dead on arrival since they have not complied with our distance mandates, and apart from that this company's litigation history- and there are more cases involving RWE related entities I haven't had time to fully review- all of their history raises serious concerns.

And why haven't their apparent great environmental experts and planners addressed in their financial report and the project summary the impact of Big Pine on wildlife, the runoff issues that I've seen nothing on, the preservation of the rural character of our county which is a primary goal of our Comprehensive Plan- why they don't apparently address these issues or why they ignore our solar plan distance requirements is beyond me.

Please read the attached and I'd encourage all to look into RWE as I have. Sure hope our county has, or will, be doing the same.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

... ..

... ..

... ..

... ..

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:42 PM
To: Kerrine.Bryan@rwe.com
Cc: Kate.Williams@rwe.com; Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Eric Fly; Beverly Walkup
Subject: FW: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

And to be totally transparent about the support for your projects- I guess Prince George has the same issues as Sussex citizens will have with this. Was this disclosed to Sussex or at the presentation? Of course not.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, September 21, 2024 7:56 AM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; mpoarch@sussexcountyva.gov; rotttrucks@aol.com; rtyler@impassoc.org; Richard Douglas <rdouglas@sussexcountyva.gov>; Andy Mayes <amayas@commonwealthenvironmental.com>; Frances Chambers <fchambers@nsacademy.org>; Kevin Bracy <bornajunker@hotmail.com>; Molly Dowless <brickhill1747@gmail.com>; carl fly <cefly@icloud.com>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>; Beverly Walkup <bwalkup@sussexcountyva.gov>
Subject: Re: County to solar farm: Stop work

And here is another RWE Clean Energy solar farm proposal in our neighboring Prince George County Va being objected to by voluminous citizens for the very same reasons that apply here- must us, in contradiction to our Comprehensive Plan goal to preserve our rural character. Not sure of the status of this proposed solar farm.

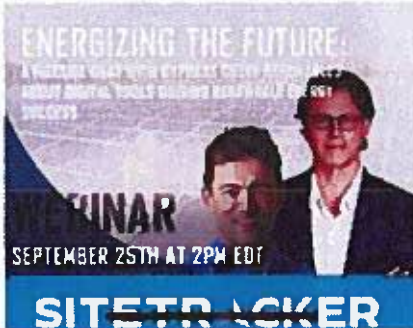
By Brad Kramer May 8, 2024



A proposed 100 MW solar farm proposed by RWE Clean Energy in Prince George County, Virginia, draws opposition from residents who say it will hurt the quality of life and threaten the future for local farmers and hunters.

Residents of Moscow, Maine, vote to ban commercial solar projects, joining a growing list of municipalities in the state to limit or prohibit large solar farms.

*** advertisement ***



Sent from my iPhone

On Sep 20, 2024, at 10:09 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

To prove my point that solar companies will promise and say anything but then environmental problems occur anyway (eg- Waverly solar cess pool), attached is proof that this applies to RWE Clean Energy itself/ the applicant for Big Pines. RWE promised certain controls if run off but they did not meet their promises in a case in Georgia. RWE was ordered to cease its operations. I assume our own Planning Department knows this, but if not, they need to always research and due diligence to know the history of this company. I did so I hope the county realizes I have been right all along on promises not kept to the detriment of preserving our natural environment. Bottom line: RWE cannot be trusted

And I also found out Mecklenburg County denied RWE or a related RWE company an application for a solar project due to standard concerns. So what did RWE do? Filed a suit now pending alleging

“unreasonable arbitrary” denial of the requested zoning amendment. RWE is dangerous and should be really looked at.

And another Google article anyone can look up as I did summarized an extensive public hearing in Dekalb, Illinois (typo?) where RWE Clean Energy - same applicant as Bug Pines- faced many citizens opposing it due to concerns about wildlife protection and RWEs inability to answer a concern about runoff into a local water source. What? They can't even respond to that? The application hearing was continued and I am not aware of what further results occurred on this.

But I'd really ask our Planning Department and other county resources to investigate RWE since it appears they are not the squeaky "Clean" company that they claim to be.

Although this application should be dead on arrival since they have not complied with our distance mandates, and apart from that this company's litigation history- and there are more cases involving RWE related entities I haven't had time to fully review- all of their history raises serious concerns.

And why haven't their apparent great environmental experts and planners addressed in their financial report and the project summary the impact of Big Pine on wildlife, the runoff issues that I've seen nothing on, the preservation of the rural character of our county which is a primary goal of our Comprehensive Plan- why they don't apparently address these issues or why they ignore our solar plan distance requirements is beyond me.

Please read the attached and I'd encourage all to look into RWE as I have. Sure hope our county has, or will, be doing the same.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:41 PM
To: Kerrine.Bryan@rwe.com
Cc: Kate.Williams@rwe.com; Meg.Bane@rwe.com; Tory.Kaso@rwe.com; Beverly Walkup; Richard Douglas; Eric Fly; Molly Dowless; Frances Chambers
Subject: FW: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

And here are other facts that I've researched and which are relevant as to RWE's transparency and background. I guess this is why you tried to silence my questions, but don't worry, I'll present all of this on Thursday.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 10:10 PM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; mpoarch@sussexcountyva.gov; rotttrucks@aol.com; rtyler@impassoc.org; Richard Douglas <rdouglas@sussexcountyva.gov>; Andy Mayes <amayas@commonwealthenvironmental.com>; Frances Chambers <fchambers@nsacademy.org>; Kevin Bracy <bornajunker@hotmail.com>; Molly Dowless <brickhill1747@gmail.com>; carl fly <cefly@icloud.com>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>; Beverly Walkup <bwalkup@sussexcountyva.gov>
Subject: Fwd: County to solar farm: Stop work

To prove my point that solar companies will promise and say anything but then environmental problems occur anyway (eg- Waverly solar cess pool), attached is proof that this applies to RWE Clean Energy itself/ the applicant for Big Pines. RWE promised certain controls if run off but they did not meet their promises in a case in Georgia. RWE was ordered to cease its operations. I assume our own Planning Department knows this, but if not, they need to always research and due diligence to know the history of this company. I did so I hope the county realizes I have been right all along on promises not kept to the detriment of preserving our natural environment. Bottom line: RWE cannot be trusted

And I also found out Mecklenburg County denied RWE or a related RWE company an application for a solar project due to standard concerns. So what did RWE do? Filed a suit now pending alleging "unreasonable arbitrary" denial of the requested zoning amendment. RWE is dangerous and should be really looked at.

And another Google article anyone can look up as I did summarized an extensive public hearing in Dekalb, Illinois (typo?) where RWE Clean Energy - same applicant as Bug Pines- faced many citizens opposing it due to concerns about wildlife protection and RWEs inability to answer a concern about runoff into a local water source. What? They can't even respond to that? The application hearing was continued and I am not aware of what further results occurred on this.

But I'd really ask our Planning Department and other county resources to investigate RWE since it appears they are not the squeaky "Clean" company that they claim to be.

Although this application should be dead on arrival since they have not complied with our distance mandates, and apart from that this company's litigation history- and there are more cases involving RWE related entities I haven't had time to fully review- all of their history raises serious concerns.

And why haven't their apparent great environmental experts and planners addressed in their financial report and the project summary the impact of Big Pine on wildlife, the runoff issues that I've seen nothing on, the preservation of the rural character of our county which is a primary goal of our Comprehensive Plan- why they don't apparently address these issues or why they ignore our solar plan distance requirements is beyond me.

Please read the attached and I'd encourage all to look into RWE as I have. Sure hope our county has, or will, be doing the same.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:39 PM
To: Kerrine.Bryan@rwe.com
Cc: Kate.Williams@rwe.com; Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Eric Fly; Beverly Walkup; Molly Dowless; Richard Douglas; Frances Chambers; rotttrucks@aol.com; Thomas Baicy
Subject: FW: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

And how can we even begin to trust RW#E about the representations on making sure the environment is protected when another operating project in Georgia had to be shut down due to the failure of the Oglethorpe project to comply with essential runoff issues and excessive run off levels, and even worse, then failed to respond promptly and finally tried to pass the buck by saying they would discuss it with their "contractors". How come you didn't present THAT at this meeting? How can we ever trust RWE on this?

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 9:42 PM
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:34 PM
To: Kerrine.Bryan@rwe.com
Cc: Kate.Williams@rwe.com; Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Beverly Walkup; Eric Fly
Subject: FW: Deadly legacy - RWE's problem with asbestos

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

This reflects poorly on the owners of RWE.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 8:14 PM
To: rogerking33@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; phyllistolliver2@gmail.com; Linds Edwards <linds.edwards@bgllc.net>; jlebigfoot@gmail.com; Richard Douglas <rdouglas@sussexcountyva.gov>; rotttrucks@aol.com; Michael Zehner <michael.zehner@bgllc.net>; Molly Dowless <brickhill1747@gmail.com>; Rufus Tyler <rtyler@impassoc.org>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Steve White <steve.white@dbhds.virginia.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>; Wayne Jones <jonesfamily2@msn.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; Beverly Walkup <bwalkup@sussexcountyva.gov>; David Conmy <dconmy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Frances Chambers <fchambers@nsacademy.org>; Kevin Bracy <bornajunker@hotmail.com>; Michael Poarch <mpoarch@sussexcountyva.gov>
Subject: Fwd: Deadly legacy - RWE's problem with asbestos

Attached is a more detailed article about RWE- the owner of this Big Pines applicant RWE Clean Energy. I find it totally disgusting that we would ever even consider any project whatsoever by this company or its owner, even if it met our plan distance requirements, which it doesn't, that has the audacity to deny lung problems are related to asbestos based on a hired gun bogus report, and second, that when sued for damages relating to their responsibility for asbestos damages, they delay and delay and delay these law cases long enough that the plaintiffs die before the case goes to trial and they receive nothing. What a wonderful trustworthy benevolent company (HA!!)

Can you imagine the litigation delays this county would experience if we actually even considered and approved this project? This attached article, to me as having 50 years experience as a trial attorney, makes it clear that with this company's history, Sussex County would be negligent in even considering this project owned ultimately by RWE. I would suggest RWE should stand for REALLY WORTHLESS ENTERPRISE. Enough said- please read the article and remember, I didn't write it.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 7:51:22 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: Deadly legacy - RWE's problem with asbestos

RWE, the UK's biggest power producer, has a problem with asbestos

Source: SourceMaterial

<https://search.app/HuzSopMdbENdGMf78>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:32 PM
To: Kate.Williams@rwe.com
Cc: Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Kate.Williams@rwe.com; Beverly Walkup
Subject: FW: Big Pine Solar Project

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Another concern.

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 5:45 PM
To: Beverly Walkup <bwalkup@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; David Conmy <dconmy@sussexcountyva.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>
Cc: Molly Dowless <brickhill1747@gmail.com>; Frances Chambers <fchambers@nsacademy.org>; Eric Fly <cefly@icloud.com>; rotttrucks@aol.com; Rufus Tyler <rt Tyler@impassoc.org>; phyllistolliver2@gmail.com; Wayne Jones <jonesfamily2@msn.com>; Steve White <steve.white@dbhds.virginia.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Michael Poarch <mpoarch@sussexcountyva.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds Edwards <linds.edwards@bgllc.net>; tmassenburg29@gmail.com; jlebigfoot@gmail.com; shands301@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; rogerking33@gmail.com
Subject: Re: Big Pine Solar Project

I've done some further due diligence in checking out the background of the Big Pine solar project- not sure if the Planning Department has similarly done this due diligence, but I'd really be concerned about any consideration of this project for the reasons which follow. I've attached excerpts verifying my investigation for your

5:01

100%

www.rwe.com

institutional investors from Germany owned 21% of our capital stock. This investor group accounted for 13% in the rest of Continental Europe, 15% in the United Kingdom / Ireland, 24% in North America and 11% in the Middle East. At the end of 2023, our single-largest shareholder was Qatar Holding, with a stake of 9.1%, followed by US asset management company BlackRock with 6.3%.

Shareholder structure of RWE AG¹ (as of 14 March 2024)



¹ As of the end of 2023, percentages reflect shares in subsidiary capital. Sources: RWE data and notifications from shareholders in accordance with the German Securities Trading Act.

Information about the calculation of the free float can be found in the Guide to the Equity Indices of Deutsche Börse (as of January 2024).

Shareholders with > 3% of the voting rights

Under the German Securities Trading Act

5:00

100%

employees:

Institutional investors

Show more

At the end of 2023, our single-largest shareholder was Qatar Holding, with a stake of 9.1%, followed by US asset management company BlackRock with 6.3%.

Shareholder structure - RWE

About featured snippets Feedback

People also ask

- Is RWE a publicly traded company?
- Who is the CEO of RWE generation?
- Who is the CEO of RWE Renewables Americas?
- Who is the CEO of RWE trading?

review.

5:03

More results

Is RWE Clean Energy public?

Who is the biggest investor in clean energy?

How many employees do clean energy companies have?

2:03

More than

is RWE Clean Energy but

Who is the biggest investor
in energy?

How many employees do
energy have?

ERROR: rangecheck
OFFENDING COMMAND: image

OPERAND STACK:
--nostringval--

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:31 PM
To: Kerrine.Bryan@rwe.com
Cc: Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Kate.Williams@rwe.com; Beverly Walkup
Subject: FW: Big Pine Solar Project

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

FYI

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 3:45 PM
To: Beverly Walkup <bwalkup@sussexcountyva.gov>; Richard Douglas <rdouglas@sussexcountyva.gov>; David Conmy <dconmy@sussexcountyva.gov>; Thomas Baicy <tbaicy@sussexcountyva.gov>
Cc: Molly Dowless <brickhill1747@gmail.com>; Frances Chambers <fchambers@nsacademy.org>; Eric Fly <cefly@icloud.com>; rotttrucks@aol.com; Rufus Tyler <rt Tyler@impassoc.org>; phyllistolliver2@gmail.com; Wayne Jones <jonesfamily2@msn.com>; Steve White <steve.white@dbhds.virginia.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Michael Poarch <mpoarch@sussexcountyva.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds Edwards <linds.edwards@bgllc.net>; tmassenburg29@gmail.com; jlebigfoot@gmail.com; shands301@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; rogerking33@gmail.com
Subject: Re: Big Pine Solar Project

I would also add that we don't need more solar projects in this area. I live in Waverly and these farms and an additional solar farm will reduce the appraised value of my properties and probably all town properties. This would have the effect of reducing real estate tax income to the county assuming a new post solar farm assessment is adequately done. That is another factor you should consider. And over my 50 years of family law practice, I have reviewed and cross examined 100s of appraisals relating to real estate values, so I am confident a competent real estate appraiser would agree as to the negative impact these farms are having on property values since it's clear to me people aren't moving to Sussex County in part because of solar farms.

And we certainly don't want a glut of cess pool farms- another disaster of the Waverly solar farm which is on the end of the road I live on- and we all know what a mess that still is resulting in a 6 figure DEQ fine and a strict order which I encourage to read.

Riding down Newville Road as of now is such a pleasant drive. This proposal would ruin the natural characteristics of that land which is the most important part of our County's Comprehensive Plan as I read it. Don't let this proposal mess that up.

Waverly's experience shows what I have always said- these companies will say and promise anything but when it comes to really complying with run off environmental impacts and all the other bases of litigation in Virginia and around the country I have previously shared with the county- these are empty promises. Waverly solar farm should prove that.

Thank you.
Sent from my iPhone

> On Sep 20, 2024, at 3:24 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

>

> Thank you so much for your prompt reply. I guess that should mean this application should be dead on arrival and I hope the planning department will not deviate from our solar plan requirements which were so carefully crafted after extensive discussions and county approval with these distance requirements. If the county permits this one, that would open up a flood gate for others who could argue that if you permitted Big Pine, then you must approve us too. That precedent would effectively write out and make our careful negotiated plan requirements meaningless. I hope you and the county will not let that happen.

>

> I certainly know this up to the Planning Commission and Board, but I hope your recommendations follow our plan.

>

> Thank you!

>

> Sent from my iPhone

>

>> On Sep 20, 2024, at 2:50 PM, Beverly Walkup <bwalkup@sussexcountyva.gov> wrote:

>> Dear Mr. Diehl: Per the project maps for Big Pine, a portion of the

>> project is within 3 miles of the Town of Waverly. The project is

>> also within 2 miles of Cabin Point Solar and Waverly Solar.

>> Sincerely, Beverly

>>

>>

>>

>> -----Original Message-----

>> From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

>> Sent: Thursday, September 19, 2024 5:13 PM

>> To: Beverly Walkup <bwalkup@sussexcountyva.gov>

>> Cc: Richard Douglas <rdouglas@sussexcountyva.gov>; Molly Dowless

>> <brickhill1747@gmail.com>; Frances Chambers

>> <fchambers@nsacademy.org>; David Conmy <dconmy@sussexcountyva.gov>;

>> Eric Fly <cefly@icloud.com>; Thomas Baicy

>> <tbaicy@sussexcountyva.gov>; rotttrucks@aol.com; 'Rufus Tyler'

>> <rtyler@impassoc.org>; phyllistolliver2@gmail.com; Wayne Jones

>> <jonesfamily2@msn.com>; Steve White <steve.white@dbhds.virginia.gov>;

>> Shilton Ricks Butts <sricks@sussexcountyva.gov>

>> Subject: Big Pine Solar Project

>>

>> CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

>>

>>

>> Per our conversation of today, in addition to seeing if any part of

>> the proposed location is within 3 miles from the Town of Waverly limits, can you also see if it is within 2 miles of any existing solar farm (eg- Waverly farms) which would also not be permitted by the comprehensive plan.

>>

>> The neighborhood meeting is on September 26th at the Waverly town office, so I'd appreciate if possible your looking into this before the meeting. I don't have a specific map location of the proposal to look into this.

>>

>>

>> Thank you!

>>

>> Sent from my iPhone

>> ****WARNING****

>> This email originated from outside of the Barnes & Diehl email network.

>> **DO NOT CLICK ANY LINKS and/or DO NOT OPEN ANY ATTACHMENTS** unless you

>> recognize the sender, solicited the information and know the content is safe.

>> **NEVER** give out any user names, pins and/or passwords

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Tuesday, September 24, 2024 7:29 PM
To: Kerrine.Bryan@rwe.com
Cc: Tory.Kaso@rwe.com; Meg.Bane@rwe.com; Kate.Williams@rwe.com; Eric Fly; Molly Dowless; Beverly Walkup; Frances Chambers
Subject: FW: Big Pine Solar Project

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Mrs. Bryan: This is Lawrence Diehl, a resident of Waverly, Virginia and a practicing attorney in Virginia for 50 years. I have handled more civil appeals - over 100- to the Virginia Court of Appeals than any other attorney in Virginia from my understanding, which is the court where any appeal of a denial of Big Pines would be made. I have drafted and testified as an expert in our Virginia General Assembly on statutory legislation for over 30 years. I merely point this out as background to give credence to my comments which will follow.

I listened to the entire virtual presentation just completed a few minutes ago. I am very amazed and disappointed that most of the questions I sent in- which were acknowledged were received- and some I gave to the verbal operator- were totally ignored and not answered. And even worse, your emcee at the end stated that there were no more questions. That was patently false and I will be clear to bring this out at Thursday's meeting at which I will appear. And further, last week I did exactly what your instructions were- I got on the Big Pines Website- asked at least 2 questions by separate e-mails following all instructions correctly, and received a response that they would be answered promptly. They were not- not a peep- nothing. No response. I sure hope your company does a better job in your communications to our citizens since I am not impressed at all so far.

I had previously provided the county, the Planning Commission members and Board and other interested parties a series of e-mails expressing my concerns about this project. Your failure to respond or answer questions which I thought was the purpose of the virtual neighborhood meeting- makes it more clear our county should have nothing to do with RWE.

Although my comments below which were sent and others I will be forwarding to you which I have shared with the county speak for themselves, the fact that you admitted the distance of the project from Waverly was 2.3 miles, and the information from Mrs. Walkup stating that your plan also violates our solar distance requirements since your plan is within 2 miles of at least two other solar projects (Waverly which has turned into a cesspool and resulted in a DEQ fine of 6 figures and a strict compliance order) and Cabin Point Solar, makes this entire project dead on arrival. If that is why you didn't want to answer my questions about that I asked both on line and by phone- then the attempt to hide this from the public is unbelievable. But I sure hope you understand our solar requirements for distances can't be ignored and were the result of extensive negotiations, studies and efforts. You plan violates that clearly and should not go any further.

Accordingly I will be sending you shortly my other research and comments. I will note that the statement by one of your presenters that land values are not impacted by solar farms is false at least around here. Maybe nationally, but I have discussed this issue previously with local real estate agents and there is no question this proposed solar farm and others already operating have reduced the value of my home in Waverly. I would suggest you do your research more accurately and in this specific locality before such misrepresentations are provided to the public. Also- picking this area because of it allegedly being rural is exactly why maintaining its rural character -rather than cutting down extensive timber- is consistent with and mandated by the Comprehensive Plan of both Sussex County generally and the Waverly district specifically. I suggest you read our Plans which have as their priority the maintenance of the decades of the rural

heritage and character of our County. I have enjoyed my country drives along Newville Avenue and to see that rural area destroyed is very concerning.

If you want to call me anytime to discuss this and the other issues I will be sending you- my cell is 804-763-9631. Thank you.

-----Original Message-----

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>

Sent: Friday, September 20, 2024 3:24 PM

To: Beverly Walkup <bwalkup@sussexcountyva.gov>

Cc: Richard Douglas <rdouglas@sussexcountyva.gov>; Molly Dowless <brickhill1747@gmail.com>; Frances Chambers <fchambers@nsacademy.org>; David Conmy <dconmy@sussexcountyva.gov>; Eric Fly <cefly@icloud.com>; Thomas Baicy <tbaicy@sussexcountyva.gov>; rotttrucks@aol.com; Rufus Tyler <rtyler@impassoc.org>; phyllistolliver2@gmail.com; Wayne Jones <jonesfamily2@msn.com>; Steve White <steve.white@dbhds.virginia.gov>; Shilton Ricks Butts <sricks@sussexcountyva.gov>; Michael Poarch <mpoarch@sussexcountyva.gov>; Michael Zehner <michael.zehner@bgllc.net>; Linds Edwards <linds.edwards@bgllc.net>; tmassenburg29@gmail.com; jlebigfoot@gmail.com; shands301@gmail.com; Kevin Bracy <bornajunker@hotmail.com>; Andy Mayes <amayes@commonwealthenvironmental.com>; rogerking33@gmail.com

Subject: Re: Big Pine Solar Project

Thank you so much for your prompt reply. I guess that should mean this application should be dead on arrival and I hope the planning department will not deviate from our solar plan requirements which were so carefully crafted after extensive discussions and county approval with these distance requirements. If the county permits this one, that would open up a flood gate for others who could argue that if you permitted Big Pine, then you must approve us too. That precedent would effectively write out and make our careful negotiated plan requirements meaningless. I hope you and the county will not let that happen.

I certainly know this up to the Planning Commission and Board, but I hope your recommendations follow our plan.

Thank you!

Sent from my iPhone

> On Sep 20, 2024, at 2:50 PM, Beverly Walkup <bwalkup@sussexcountyva.gov> wrote:

> Dear Mr. Diehl: Per the project maps for Big Pine, a portion of the

> project is within 3 miles of the Town of Waverly. The project is also

> within 2 miles of Cabin Point Solar and Waverly Solar. Sincerely,

> Beverly

>

>

>

> -----Original Message-----

>

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, September 21, 2024 1:29 PM
To: Richard Douglas; Beverly Walkup; Thomas Baicy; Michael Poarch
Subject: Fwd: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 21, 2024 at 1:25:
Subject: County to solar farm: Stop work

I sent the email below to the others but yours came back as undelivered- so here it is again.

Sent from my iPhone

On Sep 21, 2024, at 12:36 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

To Beverly Walkup and others:

I'd like to address further concerns about RWE to support the denial recommendation of Big Pines application by the Sussex County Planning Department.

What bothers me, and should bother our own county, is not only RWE's failure to comply with their runoff representations causing the environmental damages summarized in Georgia, but RWE's failure to even respond to the violations when first notified. We certainly don't want any solar company approved that shows a lack of compliance and a lack of cooperation or taking prompt action with the county as experienced in Georgia. And I would take the word of the Georgia county officials over the empty excuses of RWE any day as to any factual disputes on their position on the issues.

But even worse, it appears RWE is trying to pass the buck to its "contractors" to resolve the issue- not taking responsibility for the environmental damages themselves. They said they'd get with them to address the issue/ but not themselves. Wow!!

So how is that relevant to the Big Pines application?

Over the past many months I've sent memo after memo to you, the Planning Dept, the Board and Mr. Douglas insisting that before any project is approved, that we know the SPECIFIC IDENTITIES of all subcontractors before any final approval. This would include trucking/delivery contractors (remember about the unlicensed driver who hit a school bus in Isle of Wight) but especially installers and maintenance of the panels. Why? So the county can do its due diligence in looking into each specific contractor as to the history, qualifications, how they hire, etc. The Georgia experience shows exactly why I've been right all along in asking the county to make any applicant for any solar farm project provide the name and identity of their "contractors" so we can determine their credibility. Failure to investigate them would be irresponsible and would avoid the types of problems experienced in Georgia and which we experienced here in Sussex relating to the Waverly farm fiasco.

Would we want to rely on mere statements by RWE that "oh, they will be just fine" when clearly that did not happen in Georgia. We certainly don't want RWE's contractors here in Sussex if we really care about the integrity of any project.

And finally, I don't know what information or reports you have received from any planners or environmentalists on behalf of RWE. I assume the "bgllc" people you copied by that email are among those providing info. If these "expert" planners are truly ethical and transparent about the experience of RWE and their allegation there will be no environmental concerns, then I assume they have also included in their reports all "relevant" and important information about this and RWE's -this applicant's lack of compliance in Georgia, the many denials of their proposed applications for solar farms in other localities such as in Mecklenburg County and many others around Virginia and in other states and other RWE related entities. A cursory review by Google shows many of them.

But if these "experts" were not open and transparent about what SHOULD be relevant and disclosed and did not tell Sussex about this history, then their reports should be considered worthless and a result of being paid for hired guns who I assume are being paid by RWE to say what they want but to hide the real problems I have summarized with RWE. So I ask you and the Planning Dept to give no weight to what I assume are very glossy, but meaningless, reports omitting all that I have summarized herein.

I hope all of this will be helpful in what I hope will be the denial recommendation of this project for all the reasons and prior emails on this and all other issues.

Thank you!

Begin forwarded message:

From: Lawrence Diehl
<ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT

To: Lawrence Diehl
<ldiehl@barnesfamilylaw.com>

Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Saturday, September 21, 2024 7:56 AM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; Michael Poarch; rotttrucks@aol.com; 'Rufus Tyler'; Richard Douglas; Andy Mayes; Frances Chambers; Kevin Bracy; Molly Dowless; Eric Fly; Shilton Ricks Butts; Thomas Baicy; Beverly Walkup
Subject: Re: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

And here is another RWE Clean Energy solar farm proposal in our neighboring Prince George County Va being objected to by voluminous citizens for the very same reasons that apply here- must us, in contradiction to our Comprehensive Plan goal to preserve our rural character. Not sure of the status of this proposed solar farm.

By Brad Kramer May 8, 2024



A proposed 100 MW solar farm proposed by RWE Clean Energy in Prince George County, Virginia, draws opposition from residents who say it will hurt their quality of life and threaten the future for local farmers and hunters.

Residents of Moscow, Maine, vote to ban commercial solar projects, joining a growing list of municipalities in the state to limit or prohibit large solar farms.

//** advertisement **//



Sent from my iPhone

On Sep 20, 2024, at 10:09 PM, Lawrence Diehl <ldiehl@barnesfamilylaw.com> wrote:

To prove my point that solar companies will promise and say anything but then environmental problems occur anyway (eg- Waverly solar cess pool), attached is proof that this applies to RWE Clean Energy itself/ the applicant for Big Pines. RWE promised certain controls if run off but they did not meet their promises in a case in Georgia. RWE was ordered to cease its operations. I assume our own Planning Department knows this, but if not, they need to always research and due diligence to know the history of this company. I did so I hope the county realizes I have been right all along on promises not kept to the detriment of preserving our natural environment. Bottom line: RWE cannot be trusted

And I also found out Mecklenburg County denied RWE or a related RWE company an application for a solar project due to standard concerns. So what did RWE do? Filed a suit now pending alleging “unreasonable arbitrary” denial of the requested zoning amendment. RWE is dangerous and should be really looked at.

And another Google article anyone can look up as I did summarized an extensive public hearing in Dekalb, Illinois (typo?) where RWE Clean Energy - same applicant as Bug Pines- faced many citizens opposing it due to concerns about wildlife protection and RWEs inability to answer a concern about runoff into a local water source. What? They can't even respond to that? The application hearing was continued and I am not aware of what further results occurred on this.

But I'd really ask our Planning Department and other county resources to investigate RWE since it appears they are not the squeaky “Clean” company that they claim to be.

Although this application should be dead on arrival since they have not complied with our distance mandates, and apart from that this company's litigation history- and there are more cases involving RWE related entities I haven't had time to fully review- all of their history raises serious concerns.

And why haven't their apparent great environmental experts and planners addressed in their financial report and the project summary the impact of Big Pine on wildlife, the runoff issues that I've seen nothing on, the preservation of the rural character of our county which is a primary goal of our Comprehensive Plan- why they don't apparently address these issues or why they ignore our solar plan distance requirements is beyond me.

Please read the attached and I'd encourage all to look into RWE as I have. Sure hope our county has, or will, be doing the same.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone

Beverly Walkup

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Sent: Friday, September 20, 2024 10:10 PM
To: jonesfamily2@msn.com; phyllistolliver2@gmail.com; shands301@gmail.com; tmassenburg29@gmail.com; rogerking33@gmail.com; steve.white@dbhds.virginia.gov; deltea@aol.com; jlebigfoot@gmail.com; Michael Poarch; rotttrucks@aol.com; 'Rufus Tyler'; Richard Douglas; Andy Mayes; Frances Chambers; Kevin Bracy; Molly Dowless; Eric Fly; Shilton Ricks Butts; Thomas Baicy; Beverly Walkup
Subject: Fwd: County to solar farm: Stop work

CAUTION: This email originated from outside of the organization. Do not follow guidance, click links, or open attachments unless you know the content is safe.

To prove my point that solar companies will promise and say anything but then environmental problems occur anyway (eg- Waverly solar cess pool), attached is proof that this applies to RWE Clean Energy itself/ the applicant for Big Pines. RWE promised certain controls if run off but they did not meet their promises in a case in Georgia. RWE was ordered to cease its operations. I assume our own Planning Department knows this, but if not, they need to always research and due diligence to know the history of this company. I did so I hope the county realizes I have been right all along on promises not kept to the detriment of preserving our natural environment. Bottom line: RWE cannot be trusted

And I also found out Mecklenburg County denied RWE or a related RWE company an application for a solar project due to standard concerns. So what did RWE do? Filed a suit now pending alleging "unreasonable arbitrary" denial of the requested zoning amendment. RWE is dangerous and should be really looked at.

And another Google article anyone can look up as I did summarized an extensive public hearing in Dekalb, Illinois (typo?) where RWE Clean Energy - same applicant as Bug Pines- faced many citizens opposing it due to concerns about wildlife protection and RWEs inability to answer a concern about runoff into a local water source. What? They can't even respond to that? The application hearing was continued and I am not aware of what further results occurred on this.

But I'd really ask our Planning Department and other county resources to investigate RWE since it appears they are not the squeaky "Clean" company that they claim to be.

Although this application should be dead on arrival since they have not complied with our distance mandates, and apart from that this company's litigation history- and there are more cases involving RWE related entities I haven't had time to fully review- all of their history raises serious concerns.

And why haven't their apparent great environmental experts and planners addressed in their financial report and the project summary the impact of Big Pine on wildlife, the runoff issues that I've seen nothing on, the preservation of the rural character of our county which is a primary goal of our Comprehensive Plan- why they don't apparently address these issues or why they ignore our solar plan distance requirements is beyond me.

Please read the attached and I'd encourage all to look into RWE as I have. Sure hope our county has, or will, be doing the same.

Thank you.

Sent from my iPhone

Begin forwarded message:

From: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Date: September 20, 2024 at 9:41:52 PM EDT
To: Lawrence Diehl <ldiehl@barnesfamilylaw.com>
Subject: County to solar farm: Stop work

Oglethorpe County officials issued a stop work order to Timberland Solar Project on Jan. 26.

Source: The Oglethorpe Echo
<https://search.app/98mAft3qa2gD4Hp38>

Sent from my iPhone