



60 acres gone and maybe Hecate too

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By **DIANE VALDEN**

COPAKE—In a significant turn of events, 60 acres of farmland that was supposed to be part of Hecate Energy’s controversial Shepherd’s Run Solar project has been sold and the new owner wants nothing to do with the proposed mega solar facility.

In light of the sale, Benjamin E. Wisniewski, Esq., attorney for the Town of Copake in the Hecate matter, has filed a motion “to dismiss the Shepherd’s Run application or adjourn the upcoming public comment hearing and issues procedure pending major revision to the application.”

The motion was filed January 2 with the New York State Office of Renewable Energy Siting (ORES), the agency in charge of permitting such projects.

It was just four months ago, August 25, that ORES finally deemed Hecate Energy’s application to site the mega-solar facility in Craryville complete.

That finding of completeness came after three prior Notice(s) of Incomplete Application (NOIA) issued by ORES since May 2022.

Hecate Energy, a Chicago-based developer of solar and wind facilities and



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facility east of the Taconic Hills School District and north of Copake Lake in and around the Copake hamlet of Craryville. Nearly 200,000 solar panels would be erected on about 228 acres of an 880-acre total project area. Much of the acreage is prime agricultural land. A school district campus and residential areas border the property.

The industrial-scale project is not permitted under Copake Zoning Law, yet it is in the midst of the application/permitting process because Hecate has bypassed local law and is seeking site approval from ORES under the state's streamlined siting process for renewable energy projects, known as 94-c.

According to the town's 19-page motion, Hecate has consistently identified the now sold 59.73 acres of vacant land "as participating in the Shepherd's Run Solar Project. The property is proposed to host about 20% of the entire project's solar panels, a laydown area, and the sole access road for adjacent facility parcels, among other components...

"On January 2, Craryville Farms LLC, purchased the property from Main Farm LLC. The new owner of the property asserts that, the option agreement the seller entered into with Hecate Energy expired September 17, 2023, and there are no other leases, options to lease, purchase agreements, options to purchase, or rights of tenants or occupants with respect to the property, written or oral...

"The new owner further asserts that, any person or entity intending to use the property for a solar energy facility cannot obtain from purchaser title to or a leasehold interest in any solar energy facility site, including for ingress and egress access to a public street.

"Finally, the new owner requests, 'the property not be considered as a potential site for any aspect of Hecate's

proposed Shepherd's Run Solar Facility.'"



Attorney Wisniewski writes in the motion that “Shepherd’s Run Solar is infeasible because the current layout is not viable. The loss of the property requires Hecate to redesign the project in a manner that uses new, previously unidentified parcels, or redistributes project components across parcels that have already been optimized for reducing impacts. In its own application, Hecate asserts that, the current project layout represents the smallest possible project footprint that avoids,

minimizes, and mitigates, to the maximum extent practicable, impacts on sensitive resources and was developed through a multi-year iterative process... In Hecate’s own words, a redesign like the one now required, ‘would prohibit the construction of the project altogether.’”

It is not known why Hecate failed to disclose the expiration of the lease option for the property when it occurred, in September 2023, the motion states. But as recently as December 15, 2023, Hecate distributed a project map to prospective parties and the administrative law judges that shows the now sold property as part of the facility.

“Since September, Hecate has remained silent, while ORES and prospective parties have expended significant time and financial resources reviewing the impacts of a project that can no longer be built,” the motion states.

If Hecate’s failure to disclose this information was intentional, says the motion, dismissal of Hecate’s 94-c application may be warranted based on the issue of Hecate’s corporate character alone.

No matter why Hecate failed to reveal a material change in project feasibility, there is no possibility that the now sold property will be part of the solar project.

Copake therefore “requests the administrative law judges dismiss the application based on new evidence demonstrating the applicant is not able to



design is no longer feasible, and because a major revision to the application is now required,” the motion states.

Because a major redesign of the project is now necessary, the upcoming public comment hearing scheduled for January 9 and 10 should be canceled, the issues identification process adjourned, the notice of complete application should be withdrawn, and a notice of incomplete application should be issued requiring Hecate to submit the required major revisions to its application, the motion states.

Newly-sworn-in Copake Supervisor Richard Wolf, who has been the town’s “point-man” on the Hecate project since the beginning, told The Columbia Paper by email:

“Copake filed a motion to dismiss Hecate’s application as soon as we learned that 60 acres of prime farmland, that the developer has represented would be an important piece of Shepherd’s Run’s footprint, was no longer available to Hecate, because it was sold.

“Since mid-September, Hecate has known that there was a serious question as to whether the land would be available. Nonetheless, Hecate continued to represent that the now-sold parcel would be part of the project. Why Hecate has failed to mention that one-sixth of the Shepherd’s Run footprint can no longer be part of the project is something that only Hecate can explain. I assume ORES was not told; I can state with certainty that Hecate never told the Town of Copake what was going on.

“The question now is: what will ORES do? Copake has asked that the application be dismissed. Without the sold parcel, Shepherd’s Run will have less generating capacity than it promised the state it would develop. It would lose an access road, laydown areas, collection lines, inverters, and of course, many solar panels. In short, it is no longer the project described in Hecate’s application; it is a major modification. Because ORES regulations prohibit



changes to an application it has deemed ‘complete’—it is our position that ORES must dismiss the application.

“At a bare minimum, ORES should cancel the planned public comment hearings. Would-be speakers and attendees should not be expected to comment on the potential impacts of a project that is no longer what we all thought Hecate was planning to build and operate.”

Asked for comment on the motion to dismiss, Sensible Solar for Rural New York spokesperson Sara Traberman, said by email, “We applaud the buyer’s intention to preserve prime farmland consistent with the community’s wishes and the objectives of the Town’s Comprehensive Plan.”

Neither Hecate Energy Director of Development Matt Levine nor Friends of Columbia Solar responded to requests for comment by press deadline.

The Town of Copake’s motion to dismiss may be viewed in its entirety at <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?Mattercaseno=21-02553>

To contact Diane Valden email dvalden@columbiapaper.com

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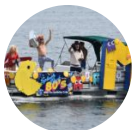
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