

HOWARD E. DRUCKS
EMAIL: hdrucks@cooperlevenson.com

Direct Phone (609) 572-7374
Direct Fax (609) 572-7375

FILE NO. 57545/00001

May 24, 2013

Via UPS Overnight Mail

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 S. Clinton Avenue
P.O. Box 350
Trenton, NJ 08625

Re: In the Matter of Implementation of L. 2012, C. 24, The Solar Act of 2012, et al
Docket Nos. EO12090832V; EO12090880V

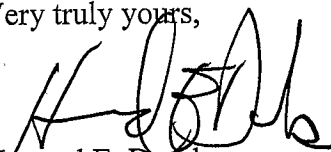
EffiSolar Development LLC (W3-077 - EO12121108V)

Dear Ms. Izzo:

Enclosed herewith please find an original and ten copies of the following for filing:

- 1) Notice of Motion for Reconsideration;
- 2) Certification of Lawrence Neuman in Support of Motion for Reconsideration;
- 3) Legal Memorandum of EffiSolar Development LLC in Support of Motion for Reconsideration;
- 4) Order for Reconsideration; and
- 5) Check in the amount of \$25.00 representing the filing fee.

Very truly yours,



Howard E. Drucks

HED/jli
Enclosure

COOPER LEVENSON APRIL NIEDELMAN & WAGENHEIM, P.A.

Kristi Izzo, Secretary

May 24, 2013

Page 2

cc: All Parties on the Attached Service List (*via Electronic Mail & Regular Mail*)

CLAC 2136699.1

DOCKET NO. EO12090832V - IN THE MATTER OF IMPLEMENTATION OF L.2012, C. 24,
THE SOLAR ACT OF 2012; AND

DOCKET NOS. EO12090832V & EO12090880V - IN THE MATTER OF THE
IMPLEMENTATION OF L.2012, C. 24 N.J.S.A. 48:3-87 (Q)(R)(S) PROCEEDINGS TO
ESTABLISH THE PROCESSES FOR DESIGNATING CERTAIN GRID SUPPLY PROJECTS
AS CONNECTED TO THE DISTRIBUTION SYSTEM - REQUEST FOR APPROVAL OF GRID
SUPPLY SOLAR ELECTRIC POWER GENERATION PURSUANT TO SUBSECTION (S)

SERVICE LIST

(Parties of Record)

George Kotzias
Alethea Cleantech Advisors
34 Kingston Terrace
Kingston, NY 12401
gkotzias@aletheacleantech.com

Robert Demo
Atlantic Green Power Corp.
4525 Atlantic-Brigantine BLVD
Brigantine, NJ 08203
rdemos@atlanticgreenpower.com

Brent Beerley, Manager
Community Energy, Inc.
Three Radnor Corporate Center, Suite 300
100 Matsonford Road
Radnor, PA 19087
bbeerley@communityenergyinc.com
Brent.Beerley@CommunityEnergyInc.com

Ryan J. Scerbo, Esq.
Beaver Run Solar Farm LLC
DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
RScerbo@decotiislaw.com

Ralph Laks, Sole Managing Member
Day Four Solar, LLC
1487 Cedar Row
Lakewood, NJ 08801
lariatlake@aol.com

Shuping Cong
Blue Sky Technologies
182 Whitman Avenue
Edison, NJ 08817
Scong2001@yahoo.com

Michael A. Bruno, Esq.
EAI Investments, LLC
Giordano, Halleran & Ciesla
125 Half Mile Road, Suite 300
Red Bank, NJ 07701-6777
MBRUNO@GHCLAW.COM

Pin Su, President
Blue Sky Technologies USA
1967 Lincoln Hwy, Suite 12
Edison, NJ 08817
solar@blueskynj.com

Lawrence Neuman, President
EffiSolar Development LLC
90 Woodbridge Center Drive
Woodbridge, NJ 07095
340 East 64th Street
New York, NY 10065
lneuman@effisolar.com

Kevin Skudera
Brickyard Solar Farms, LLC.
566A State Hwy 35
Red Bank, NJ 07701
skuderakg@aol.com

Enio Ricci
Invenergy Solar Developmen, LLC.
One South Wacker Drive
Chicago, IL 60606
ericca@invenergyllc.com

Docket Nos. EO12090832V, EO12090880V,
EO12121089V - EO12121144V

Mark Noyes
Frenchtown III Solar
100 Summit lake Drive
Valhalla, NY 10595
novesm@coneddev.com

Timothy D. Ferguson
Brian J. Fratus, CEO
Garden Solar, LLC
34 Coppemine Village
Flemington, NJ 08822
Tferguson@gardensolar.us

Scott Lewis
Green Energy Partners LLC
31 Fairview Hill Road
Newton, NJ 07860
klughill@aol.com

Bruce Martin
GreenPower Development, LLC.
100 Sharp RD
Marlton, NJ 08053
brmtnn@gmail.com

Antony Favorito
Pittsgrove Solar
331 Husted Station Road
Pittsgrove, NJ 08318
tfavorito@gmail.com

Michael Greenberg
Renewtricity
85 Challenger Road, Suite 501
Ridgefield Park, NJ 07660
mgreenberg@renewtricity.net

Keissler Wong
Rock Solid Realty, Inc.
1069 RTE 18 South
East Brunswick, NJ 08816
Keissler88@gmail.com

Jim Spano
Tetrattech
516 Rt. 33 West,
Building 2, Suite 1
Millstone Township, NJ 08535
jimspano@spanopartners.com

Scott Lewis
Klughill
31 Fairview Hill Road
Newton, NJ 07860
klughill@aol.com

Justin Michael Murphy, Esq.
Millenium Land Development
20 Worrell Road
Tabernacle, NJ 08088
justinmichaelmurphy@verizon.net

Dennis Wilson
Millennium Development
108 Route 46 West
Parsippany, NJ 070
dennis@renewablepowerinc.com

Paul M. Whitacre
OCI Solar Power, LLC.
300 Convent Street, Suite 1900
San Antonio, TX 78205
pwhitacre@ocisolarpower.com

Fabio Ficano
PVOne/ Moncada NJ Solar
101 California Street, Suite 3160
San Francisco, CA 94111
f.ficano@moncadaenergy.com

Elliott Shanley
PVOne, LLC
771 Shrewsbury Ave., Suite 105
Shrewsbury NJ, 07702
eshanley@pvone.com

Scott Acker
Quakertown Farms
P.O. Box 370
Quakertown, NJ 08868
scott@gardenstategrowers.com

Willy Chow
Sun Perfect Solar, Inc.
3101 N..First Street, Suite 107
San Jose, CA 95134
willychow@sunperfect.com

Clay Rager
United Solar Works
420 Barnsboro Road
Sewell, NJ 08080
clay@ragerenergy.com

Clifford Chapman
Syncarpha Ty, LLC
645 Madison Avenue, 14th Floor
New York, NY 10022
cliff@synarpha.com

(Remainder of Service List)

Stefanie A. Brand, Director
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. 003
Trenton, N.J. 08625
sbrand@rpa.state.nj.us

Felicia Thomas-Friel
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003 Trenton, N.J. 08625
ftomas@rpa.state.nj.us

Sarah Steindel
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003
Trenton, N.J. 08625
ssteindel@rpa.state.nj.us

Paul Flanagan
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003
Trenton, N.J. 08625
pflanagan@rpa.state.nj.us

Michael Winka
Senior Policy Advisor Smart Grid
NJBPU - President's Office
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
michael.winka@bpu.state.nj.us

Benjamin S. Hunter
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
b.hunter@bpu.state.nj.us

Babette Tenzer, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, NJ 07102
Babette.Tenzer@dol.lps.state.nj.us

Marisa Slaten, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
Newark, NJ 07102
Marisa.Slaten@dol.lps.state.nj.us

Caroline Vachier, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, NJ 07102
Caroline.Vachier@dol.lps.state.nj.us

Rachel Boylan, Legal Specialist
NJ Board of Public Utilities
44 South Clinton Avenue, 10th Floor
Post Office Box 350
Trenton, NJ 08625-0350
rachel.boylan@bpu.state.nj.us

Betsy Ackerman, Acting Director
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
elizabeth.ackerman@bpu.state.nj.us

Harlan Vermes, Business Development Mgr
Absolutely Energized Solar Electric
974 Route 33 East
Monroe Township, NJ 08831
HVermes@aesolar.com

Michael P. Torpey, Managing Partner
A.F.T. Associates, LLC
15 West Front Street, 4th Floor
Trenton, NJ 08608
Mtorpey.aft@gmail.com

Philip J. Passanante, Esq.
Associate General Counsel
Atlantic City Electric Company
500 N. Wakefield Drive
PO Box 6066
Newark, DE 19714-6066
Philip.Passanante@pepcoholdings.com

Trevan J. Houser, President
Land Resource Solutions
30 Twosome Drive, Suite 1
Moorestown, NJ 08057
thouser@irsrenewal.com

Lyle K. Rawlings, P.E., Vice President
MidAtlantic Solar Energy Industries Assoc.
c/o Rutgers Eco Complex, Suite 208-B
1200 Florence-Columbus Road
Bordentown, NJ 08505
Lyle@renewablepowerinc.com

Louis Weber
Mohawk Associates LLC
47 Woodport Road
Sparta, NJ 07871
louweber@earthlink.net

Allison E. Mitchell
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
allison.mitchell@bpu.state.nj.us

Jim Baye
iimbaye@optonline.net

Stephen Jaffee, President
Brownfield Coalition of the Northeast
c/o GEI Consultants, Inc.
18000 Horizon Way, Suite 200
Mt. Laurel, NJ 08054
sboyle@geiconsultants.com

James J. Dixon
Chief Legal & Compliance Officer
ConEdison Development
NoyesM@coneddev.com

Joe Gennello
Honeywell Utility Solutions
5 East Stow Road, Suite E
Marlton, NJ 08053
joe.a.gennello@honeywell.com

Thad Culley & Jason B. Keyes
Keyes, Fox & Wiedman LLP
Interstate Renewable Energy Council
436 14th Street Suite 1305
Oakland, CA 94612
tculley@kfwlaw.com
jkeyes@kfwlaw.com

Alan Epstein, President & COO
KDC Solar LLC
1545 US Highway 206, Suite 100
Bedminster, NJ 07921
Alan.epstein@kdc solar.com

Michael Maynard
NJ LAND, LLC
217 10th Street
Lakewood, NJ 08701
michaelmaynard2@gmail.com

Gregory Eisenstark
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North, Suite 1419 | Morr
NJ 07960
geisenstark@morganlewis.com

Stephen B. Pearlman, Esq.
Inglesino Pearlman Wyciskala & Taylor LLC
Morris County & Somerset County
600 Parsippany Road
Parsippany, N 07054
spearlman@iandplaw.com

David Gil
Manager - Regulatory & Political Affairs
NextEra Energy Resources, LLC
700 Universe Blvd.
Juno Beach, FL 33408
david.gil@nexteraenergy.com

Jane Quinn, Esq.
Orange & Rockland
390 West Route 59
Spring Valley, NY 10977
QUINN@oru.com

George Piper
Gepsr65@aol.com

John Jenks
Quantum Solar
P.O. Box 368
Collingswood, NJ 08108
jwienks01@gmail.com

Henry R. King
Reed Smith LLP
Princeton Forrestal Village
136 Main Street, Suite 250
Princeton, NJ 08540
Hking@reedsmith.com

David Reiss
Davidreiss48@comcast.net
Jim McAleer, President
Solar Electric NJ, LLC
916 Mt. Vernon Avenue
Haddonfield, NJ 08033
Jim@SolarElectricNJ.com

Janice S. Mironov, Mayor, E.Windsor, Pres.
William G. Dressel, Jr., Exec. Dir.
NJ League of Municipalities
222 West State Street
Trenton, NJ 08608
league@nislom.com

Christopher Savastano
Larry Barth, Director Business Development
Richard Gardner, Vice President
NJR Clean Energy Ventures
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719
csavastano@njresources.com
lbarth@njresources.com
rgardner@njresources.com

Gary N. Weisman, President
Fred DeSanti
NJ Solar Energy Coalition
2520 Highway 35, Suite 301
Manasquan, NJ 08736
info@nisec.org
Fred.desanti@mc2publicaffairs.com

Paul Shust & Heather Rek
Pro-Tech Energy Solutions
3322 US Rte 22W, Suite 1502
Branchburg, NJ 08876
pshust@pro-techenergy.com
hrek@pro-techenergy.com

Matthew M. Weissman, Esq.
Public Service Electric and Gas Company
80 Park Plaza - T5, PO Box 570
Newark, NJ 07102-4194
Matthew.Weissman@pseq.com

Richard A. Morally
T&M Associates
11 Tindall Road
Middletown, NJ 07748
rmorally@tandmassociates.com

David Van Camp
Burlington Twp., NJ
vancamp@Princeton.EDU

Katie Bolcar Rever, Director, Mid-Atlantic States
Energy Industries Association (SEIA)
505 9th Street NW Suite 800
Washington, DC 20005
krever@seia.org

Thomas & Mary Van Wingerden
138 Morris Turnpike, Newton< NJ 0860
maryvw@yahoo.com

Fred Zalcman
Director Govt. Affairs Eastern States
SunEdison
fzalcman@sunedison.com

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF IMPLEMENTATION)	
OF L.2012, C. 24, THE SOLAR ACT OF)	
2012; AND)	Docket No. EO12090832V
)	
IN THE MATTER OF THE)	
IMPLEMENTATION OF L.2012, C.24)	
<u>N.J.S.A. 48:3-87 (Q)(R)(S)</u>)	
PROCEEDINGS TO ESTABLISH THE)	
PROCESSES FOR DESIGNATING)	
CERTAIN GRID SUPPLY PROJECTS AS)	Docket No. EO12090880V
CONNECTED TO THE DISTRIBUTION)	
SYSTEM – REQUEST FOR APPROVAL)	
OF GRID SUPPLY SOLAR ELECTRIC)	
POWER GENERATION PURSUANT TO)	NOTICE OF MOTION FOR
SUBSECTIONS (S))	RECONSIDERATION

TO: Kristi Izzo, Secretary
Board of Public Utilities

PLEASE BE ADVISED that EffiSolar Development LLC (W3-077 – EO12121108V) (“EffiSolar”) now moves before the Board of Public Utilities (“Board”) for reconsideration of the Board’s Order of May 10, 2013 (the “Order”) insofar as the Order classifies EffiSolar’s application as “denied” rather than “deferred.”

This motion is made pursuant to the Board’s inherent authority and *N.J.A.C.* 14:1-8.6.

The specific relief that EffiSolar now seeks is predicated on the following factual assertion that is numbered pursuant to the requirements set forth in *N.J.A.C.* 14:1-8.6:

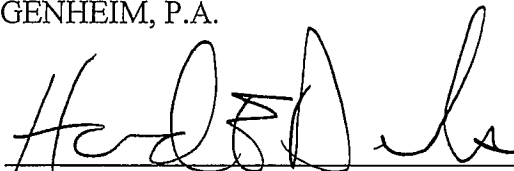
1. Insofar as the Board decided to classify pending applications as “deferred” so long as the applications indicated that the applicant

had obtained all necessary non-appealable approvals; and insofar as EffiSolar had obtained, all necessary non-appealable approvals; and insofar as EffiSolar's application did not indicate that such approvals had been obtained but such omission was an entirely clerical error not reflecting the facts, EffiSolar's application should be reclassified as "deferred" rather than as "denied."

EffiSolar's Motion for Reconsideration is based upon the enclosed Certification of Lawrence Neuman and the enclosed Legal Memorandum.

COOPER LEVENSON APRIL NIEDELMAN &
WAGENHEIM, P.A.

By:



Howard E. Drucks

DATED: May 24, 2013

CLAC 2131948.1

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF IMPLEMENTATION)
 OF L.2012, C. 24, THE SOLAR ACT OF)
 2012; AND)

Docket No. EO12090832V

IN THE MATTER OF THE)
 IMPLEMENTATION OF L.2012, C.24)
N.J.S.A. 48:3-87 (Q)(R)(S))
 PROCEEDINGS TO ESTABLISH THE)
 PROCESSES FOR DESIGNATING)
 CERTAIN GRID SUPPLY PROJECTS AS)
 CONNECTED TO THE DISTRIBUTION)
 SYSTEM – REQUEST FOR APPROVAL)
 OF GRID SUPPLY SOLAR ELECTRIC)
 POWER GENERATION PURSUANT TO)
 SUBSECTIONS (S))

Docket No. EO12090880V

***CERTIFICATION OF
 LAWRENCE NEUMAN IN
 SUPPORT OF MOTION FOR
 RECONSIDERATION***

I, Lawrence Neuman, of full age, hereby certifies as follows:

1. I am the President of EffiSolar Development LLC (“EffiSolar”). On December 17, 2012, EffiSolar, among fifty seven (57) applicants, applied to the New Jersey Board of Public Utilities (“BPU”) for an order approving EffiSolar’s proposed solar electric generating facilities “as connected to the distribution system” pursuant to N.J.S.A. 48:3-87(S)(2).

2. On May 8, 2013, the BPU issued an Order approving three of the applications.

3. On May 10, 2013, the BPU issued a separate Order (the “Order”), denying seven of the applications for lack of statutory compliance and classifying the remaining applications as either “deferred” or “denied.” EffiSolar’s application, Franklin Solar W3-077, LLC-

EO12121108V, (“W3-077”) was classified “denied.” EffiSolar now moves for reconsideration of the Order, specifically requesting that EffiSolar’s W3-077 application be reclassified as “deferred.”

4. I offer this Certification in support of EffiSolar’s Motion for Reconsideration.

5. On September 14, 2012, I notified the BPU of EffiSolar’s intention to qualify fourteen (14) projects as Connected to the Distribution System under *N.J.S.A. 48:3-87(38)(s)(2)* of the recently signed Solar Act (S1925).

6. On November 30, 2012, the BPU issued the Solar Act Subsection s. Application Form requiring the mailing or hand delivery of five (5) complete application packages to the BPU on or before December 17, 2012. Faxes and emails were not acceptable. Each complete package requested responses to detailed questions on project characteristics that required nine appendices with documents covering a wide range of issues. Question #2 asked “Have all final unappealable federal, state, regional and local approvals been secured? Yes or No.”

7. Although W3-077 had previously obtained all required non-appealable approvals, I inadvertently and falsely wrote “No, Approval process almost complete” by hand, perhaps confusing W3-077 with another project. Nevertheless, in response to Question #3 requiring “documentation demonstrating each approval required and received via the submission of official dated correspondence or other documents from the appropriate authority having jurisdiction,” I attached documents that confirmed that W3-077 had obtained all non-appealable approvals in the requisite Appendix 3 to the application.

8. Appendix 3 included a legal opinion letter by the law firm of Giordano, Halleran & Ciesla dated May 12, 2012, stating on page 7, “Based upon our review, it is our opinion that, subject to the posting of the appropriate performance guarantees with the Municipality and

completing all pre-construction matters as noted above, you may proceed to obtain building permits.” (Exhibit “1” herein) The letter was supported by five exhibits including Exhibit A, the Township Resolution of October 5, 2011, and Exhibit B, which included the October 11, 2011 newspaper publication of that Resolution. Forty-five days after that publication, the final approval became non-appealable.

9. In addition to W3-077, I prepared thirteen other applications for EffiSolar. I had only seventeen calendar days to review hundreds of documents and detailed engineering reports and site layouts to verify project sizes in order to respond accurately and compile the information for the many inquiries set forth in the application for each of fourteen applications by the deadline for submission. As a consequence, I spent many twenty-hour days working well into the early morning hours, particularly during the last few days before the deadline. On December 17, 2012, I personally brought documents totaling nine thousand pages to the BPU.

10. I was present at the meeting of the Board’s Renewable Energy Committee conducted on May 14, 2013 (the “May 14 Meeting”). At the May 14 Meeting, my counsel inquired as to the criteria for determining whether an application would be classified “denied” or “deferred.” We were advised by BPU staff that this determination was based solely on whether the applicant had checked off a box “Yes” or “No” on the application form inquiring as to whether the applicant had obtained all approvals that were non-appealable. Although W3-077 had in fact achieved non-appealable approvals, I had inadvertently written “No, Approval process almost complete” by hand, I nevertheless provided all of the requisite documents confirming that non-appealable approvals had been secured.

11. When the Board’s staff was advised that W3-077 had obtained all approvals that were not appealable and that my incorrect marking in Question #2 indicating the contrary was a

clerical mistake, the Board's counsel recommended that EffiSolar file the instant Motion for Reconsideration of W3-077.

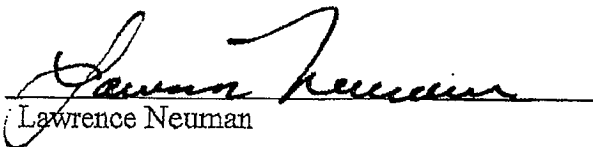
12. If W3-077 is classified "denied," it will be seriously prejudiced without due cause. Set forth below is a true and accurate itemization of the expenditures incurred by EffiSolar for W3-077 as reported to the BPU on December 17, 2012:

a. Consultants	\$ 13,875
b. Land Option	\$184,887
c. Environmental Studies	\$ 49,813
d. Preliminary Assessment	\$ 3,600
e. PJM Interconnection Costs	\$ 13,000
f. Site Planning/Engineering	\$ 70,867
g. Landscape /Planning	\$ 0
h. Meetings & Testimony & Exhibits	\$ 12,861
i. Permits and Approvals	\$ 22,446
j. Reimbursable Expenses	\$ 1,031
k. Total	\$372,381

If "denied," all such expenditures will have been lost.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: *24 May 2013*

By: 
Lawrence Neuman

CLAC.2133952.1

STATE OF NEW JERSEY
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IN THE MATTER OF IMPLEMENTATION)
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2012; AND)

) Docket No. EO12090832V
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SYSTEM – REQUEST FOR APPROVAL)
OF GRID SUPPLY SOLAR ELECTRIC)
POWER GENERATION PURSUANT TO)
SUBSECTIONS (S))

) Docket No. EO12090880V
)

) ***LEGAL MEMORANDUM OF***
) ***EFFI SOLAR DEVELOPMENT***
) ***LLC IN SUPPORT OF MOTION***
) ***FOR RECONSIDERATION***

INTRODUCTION

On May 8, 2013, the New Jersey Board of Public Utilities (“BPU”) issued an order approving three applications under *N.J.S.A. 48:3-87(s)(2)* for proposed solar electric generating facilities to be “connected to the distribution system.” On May 10, 2013, the BPU issued an order (the “Order”) classifying 20 other such applications as “deferred” because each of those applications indicated that all non-appealable federal, state and local approvals had been obtained. Seven (7) applications were classified as “denied” because of statutory deficiencies.

Twenty-six remaining applications were classified “denied” because of the failure to obtain the required federal, state, and local approvals.

EffiSolar Development LLC (“EffiSolar”) submitted fourteen applications including Franklin Solar W3-077 (“W3-077”), an applicant that had obtained all necessary approvals that were not appealable (see enclosed Certification of Lawrence Neuman (“Neuman”); the (“Neuman Certification”). Notwithstanding this fact, W3-077’s application was denied because of an inadvertent clerical error mistakenly indicating that W3-077 had not obtained the necessary approvals. W3-077 now moves for reconsideration of the denial.

On May 14, 2013, the regular monthly meeting of the Renewable Energy Committee of the Board of Public Utilities was conducted. (the “meeting”) Neuman and his legal counsel were in attendance. At the meeting, Scott Hunter and Rachel Boylan of the BPU staff indicated that the determination to classify some projects as “denied” and others as “deferred” was based solely on the information provided on Question #2 on the application, which asked “Have all final unappealable federal, state, regional and local approvals been secured? Yes or No.” Those applications classified as “deferred” had been marked with a “Yes, those classified as “denied” were not marked “Yes,” thus indicating that such approvals had not been obtained. (Para. 9; Neuman Certification)

Neuman is the President of EffiSolar Development LLC. Neuman was responsible for preparing the application submitted on behalf of W3-077. More than one year before the time of the filing, W3-077 had obtained all required approvals. (Paras. 6 & 7 and Exhibit “1”; Neuman Certification) Neuman, however, inadvertently answered Question #2 “No, Approval process almost complete,” incorrectly indicating that W3-077 had not obtained the necessary approvals:

6. Although W3-077 had previously obtained all required non-appealable approvals , I inadvertently and falsely wrote “No, Approval

process almost complete” by hand, perhaps confusing W3-077 with another project. Nevertheless, in response to Question #3 requiring “documentation demonstrating each approval required and received via the submission of official dated correspondence or other documents from the appropriate authority having jurisdiction,” I attached documents that confirmed that W3-077 had obtained all non-appealable approvals in the requisite Appendix 3 to the application. (Exhibit “1” herein)

7. Appendix 3 included a legal opinion letter by the law firm of Giordano, Halleran & Ciesla dated May 12, 2012, stating on page 7, “Based upon our review, it is our opinion that, subject to the posting of the appropriate performance guarantees with the Municipality and completing all pre-construction matters as noted above, you may proceed to obtain building permits.” The letter was supported by five exhibits including Exhibit A, the Township Resolution of October 5, 2011, and Exhibit B, which included the October 11, 2011 newspaper publication of that Resolution on. Forty-five days after that publication, the final approval became non-appealable.

8. In addition to W3-077, I prepared thirteen other applications for EffiSolar. I had only seventeen calendar days to review hundreds of documents and detailed engineering reports and site layouts to verify project sizes in order to respond accurately and compile the information for the many inquiries set forth in the application for each of fourteen applications by the deadline for submission. As a consequence, I spent many twenty-hour days working well into the early morning hours, particularly during the last few days before the deadline. On December 17, 2012, I personally brought documents totaling nine thousand pages to the BPU.
(Neuman certification)

Because Neuman’s error was unintended, clerical, and the result of fatigue, and because W3-077 had obtained the necessary approvals, as confirmed by documents appended to the application as required, W3-077’s application should be classified as “deferred” not “denied.”

LEGAL ARGUMENT

THE BPU SHOULD RECONSIDER THE ORDER AND CLASSIFY W3-077's APPLICATION AS "DEFERRED."

The BPU has both the inherent and codified right to reconsider its classification of EffiSolar's application. In *Adolph v. Elastic Stop Nut*, 18 *N.J. Super.* 543 (App. Div. 1952), the Court noted that such authority was long-standing:

So far as the rule in New Jersey is concerned, there can be no doubt as to the authority of the BPU to reopen and reconsider its decision. The functions of the BPU are *quasi-judicial*, which term is used to describe governmental officers, boards and agencies which, while not a part of the judiciary, nevertheless perform functions of a judicial character. *Id.* at 546 citing to *Brandon v. Montclair*, 124 *N.J.L.* 135 (Sup. Ct. 1940, affirmed 125 *N.J.L.* 367 (E & A 1940).

The *Adolph* Court also relied upon the holding in *Hanlon v. Town of Belleville*, 4 *N.J.* 99, 106, 107 (1950):

In analogy to the authority of courts of general jurisdiction at common law, administrative tribunals possess the inherent power of reconsideration of their judicial acts, except as qualified by statute. This function arises by necessary implication to serve the statutory policy. 4 *N.J.* 99 at 106.

The power of correction and revision, the better to serve the statutory policy, is of the very nature of such governmental agencies. 4 *N.J.* 99 at 107.

The power and right to reconsider an opinion is also codified in *N.J.A.C.* 14:1-8.6:

(a) A motion for ... reconsideration of a proceeding may be filed by any party within 15 days after the issuance of any final decision or order by the Board.

1. Such motion shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration ... is requested and whether the ultimate relief sought is reversal, modification, vacation or suspension of the action taken by the Board or other relief.

2. Where opportunity is also sought to introduce additional evidence, the evidence to be adduced shall be stated briefly together with reasons for failure to previously adduce said evidence.

"[R]econsideration is a matter within the sound discretion of the [c]ourt, to be exercised in the interest of justice." *Cummings v. Bahr*, 295 N.J. Super. 374, 384 (App. Div. 1996) (quoting *D'Atria v. D'Atria*, 242 N.J. Super. 392, 401 (Ch. Div. 1990)).

A motion for reconsideration should not be made merely because a party is dissatisfied with the court's decision. "[A] litigant must initially demonstrate that the Court acted in an arbitrary, capricious, or unreasonable manner, before the [BPU] should engage in the actual reconsideration process." *Dario v. Dario*, 242 N.J. Super. 392, 401 (Ch. Div. 1990) Nor should a motion for reconsideration "serve as a vehicle to introduce new evidence in order to cure an inadequacy in the motion record." *Capital Fin. Co. of Del. Valley, Inc. v. Asterbadi*, 398 N.J. Super. 299, 310 (App. Div. 1987)(citing *Cummings*, 295 N.J. Super. at 384.

Instead, "[r]econsideration should be utilized only for those cases which fall into that narrow corridor in which either 1) the Court has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the Court either did not consider, or failed to appreciate the significance of probative, competent evidence. *D'Atria*, 242 N.J. Super. at 401.

If a litigant seeking reconsideration "wishes to bring new or additional information ... which it could not have provided on the first application, the [BPU] should, in the interest of justice (and in the exercise of sound discretion), consider the evidence." *D'Atria*, 242 N.J. Super. at 401-402. *Cummings v. Bahr*, *supra*.

In the instant matter, W3-077 does not seek to supplement the record with new evidence. Rather, the motion seeks to resolve an unintended ambiguity resulting from Neuman's mistaken

designation that misstates the facts – the truth being that W3-077 had obtained the necessary approvals as indicated in the exhibits appended to the submitted application. (Exhibit “1”; Neuman certification)

Since having such approvals determined whether an application would be classified “deferred”, and applications were so treated, QW3-077’s application should also be classified as “deferred.” Such a reclassification would be consistent with the criteria acknowledged at the meeting, the same meeting at which the BPU staff indicated that W3-077’s motion for reconsideration would be appropriate in these circumstances. (Para. 10; Neuman certification) Reclassification of W3-007’s application satisfies the legal and equitable imperative enjoining similar treatment for those similarly situated.

The move for such an equitable disposition is particularly appropriate in light of the investments in time and expenditure that EffiSolar has made to advance its project. As noted by Neuman in Paragraph 11 of his certification, W3-077 has incurred expenses aggregating \$372,381.00. If the Board refuses to reconsider its prior classification of W#-077’s application, W3-077’s expenditures, and its efforts to conform to the Board’s requirements, will have been entirely wasted.

Such a loss is draconian, particularly when the underlying facts justify a contrary result. In addition to the obligation of equality of treatment, such an undeserved loss violates a range of equitable principles. These include the emphasis on substance rather than form, the public interest in adjudication on the merits, the abhorrence of forfeiture, and the disinclination of adjudicatory bodies to act as instruments of injustice. Various, see *Bruen v. Switlik*, 185 N.J. Super. 97, 103 (App. Div. 1982), certif. den., 91 N.J. 536 (1982); *Smith v. Witman*, 39 N.J. 397, 402 (1963); *Walle v. Board of Adj. of Twp. of So. Brunswick*, 124 N.J. 244 (App. Div. 1973).

CONCLUSION

For the reasons set forth above, and as supported by the Neuman Certification, the Board should reconsider its Order and accord the same classification of “deferred” to W3-077 as it applied to other applicants similarly situated with respect to non-appealable approvals.

COOPER LEVENSON APRIL NIEDELMAN &
WAGENHEIM, P.A.

By:

A handwritten signature in black ink, appearing to read "Howard E. Drucks", written over a horizontal line.

Howard E. Drucks
Attorneys for EffiSolar Development LLC

DATED: May 24, 2013

CLAC 2131791.1

GIORDANO, HALLERAN & CIESLA

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

JOHN A. GIUNCO, ESQ.
CHAIRMAN, REAL ESTATE AND LAND USE DEPARTMENT
JGIUNCO@GHCLAW.COM
DIRECT DIAL: (732) 219-5496

(732) 741-3900
FAX: (732) 224-6599

www.ghclaw.com

Client/Matter Nos. 17150/0073
17150/0107

May 22, 2012

VIA E-MAIL

William Xu, CEO
EffiSolar Energy Corporation
220-17 Fawcett Road
Coquitlam, BC V3K 6Vs, Canada

**Re: W3-077 EffiSolar Energy Corporation /
Resolution Compliance
2305 Route 57 Solar Farm, Block 26, Lot 2
Franklin Township, Warren County, New Jersey**

Dear Mr. Xu :

Pursuant to your request and in our capacity as land use counsel to EffiSolar for the above-referenced matter, we have reviewed the status of the approval obtained for the above-referenced project and are pleased to opine that the following approval has been granted:

I. Franklin Township Land Use Board Approval for Use Variance and Preliminary and Final Site Plan.

On September 7, 2011, the Franklin Township Land Use Board granted a use variance along with preliminary and final site plan approval to allow the installation of a commercial solar energy facility at the above-referenced property. The resolution of approval (the "Resolution") was memorialized on October 5, 2011. A copy of the Resolution is attached hereto as **Exhibit A**. A copy of the Affidavit of Publication of the Resolution is attached hereto as **Exhibit B**.

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Pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (“MLUL”), preliminary site plan approval confers upon the developer the assurance that (1) for a period of three years from the date of approval the general terms and conditions of the preliminary approval will not be changed, including such things as use requirements, lot size and yard dimensions; (2) the developer may apply at any time within the three year period for final approval of a section or sections of the entire project; and (3) the developer may apply for extensions of such preliminary approval for additional periods not to exceed, in the aggregate, two years.

Final site plan approval protects the applicant from changes to zoning for a period of two (2) years with the ability to obtain three (3) one (1) year extensions in the discretion of the Planning Board.

The Resolution of Approval was subject to the following specific conditions:

1. Based on the recommendation from the Township Fire Department, the plans should be amended in general accordance with Exhibit A-5 to show the addition of two east/west pathways of \pm 19 feet 3 inches to provide additional access to the Township Fire Department and emergency services;
 - **Satisfied by EffiSolar Engineer’s submission of March 29, 2012 and confirmed by Board Engineer’s Review Letter of April 30, 2012 and May 21, 2012.**
2. Subsequent to the construction of the solar farm, an on-site meeting will be conducted by representatives of the applicant and the Township Planner to develop a supplemental landscaping plan to provide the maximum vegetative buffer to mitigate any visual impact to offsite properties and the objectives of the Route 57 scenic corridor. A representative of the Heritage Conservancy will be

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invited to that meeting. The meeting is contemplated to take place at such time of the year where the full impact of the facility may be assessed and where the mitigating existing vegetative buffer of the deciduous trees are not present. As a result of the recommendations of the Township Representatives, the applicant will if so required present a supplemental landscaping which shall be incorporated as a condition of approval. The supplemental landscaping will also provide for a mechanism whereby if any existing offsite landscaping buffer no longer ceases to exist or otherwise is not maintained, the applicant will provide additional onsite landscaping to account for the loss of such offsite landscaping. The Board retains jurisdiction in the event there is a dispute concerning the sufficiency of the post landscaping approval;

- **Continuing Condition. To be coordinated with appropriate officials post-construction. No action currently required as per Board Engineer's review letter of May 21, 2012.**
3. The applicant will submit a conservation easement in a form satisfactory to the Board, Township Engineer and Land Use Board Attorney insuring the continued maintenance of all onsite landscaping during the time that the solar farm continues to operate at the subject property;
 - **Satisfied by EffiSolar's Engineer's submission of May 7, 2012 as per the Board Engineer Review letter of May 21, 2012.**
 4. The applicant will agree to such reasonable conditions as may be imposed by the Township Engineer in conjunction with the grant of final site plan approval which shall include, but not be limited to, standard conditions associated with bonding, a pre-construction conference, and such other conditions as are reasonably imposed

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relative to the grant of final site plan approval; *Per the Board Engineer's review letter of March 22, 2012, the following conditions were imposed:*

- a. Engineer's Estimate of Quantities and Cost
 - **Satisfied per Effisolar's Engineer's submittal of March 29, 2012. Confirmed by Board Engineer's letter of April 30, 2012 and May 21, 2012**
 - b. Escrow deposit in the amount of 5% of the cost of site improvements
 - c. A Performance and/or Restoration Guaranty
 - d. Certificate of Insurance from the contractor naming the Township of Franklin and Township Engineer as additional insured's
 - e. Attendance at a pre-construction meeting with the Township Engineer
 - **With respect to b, c, d, and e, these will be completed prior to construction.**
5. The applicant will submit a copy of a fully executed contractual agreement with PJM;
- **To be provided to the Township prior to construction.**
6. The applicant will provide, at the request of the Township Fire Department and any other emergency service personnel, specific on-site training relating to the specifics of the proposed solar farm installation;
- **Pursuant to EffiSolar's Engineer's letter of March 29, 2012; EffiSolar has agreed to comply.**
7. Prior to the start of construction, the applicant shall provide copies of all NJDEP permits which have been received relating to wetlands and wetlands buffers, flood

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plain encroachment and riparian buffer encroachments. In the event that there is any DEP permit denied which results in the loss of the right to construct solar panels, the plan will accordingly be downsized such that the number of solar panels will be accordingly reduced. Within 60 days of the denial of the applicable DEP permit, the applicant will submit revised plans depicting the loss of the respective solar panels;

- **Satisfied. Flood Hazard Verification Letter of May 16, 2012 and Applicability Determination Letter of May 16, 2012 received and submitted to Board.**

8. The applicant will comply with all recommendations that have not been incorporated into the plans herein set forth contained within the FCE Review Report dated August 9 and September 6, 2011, and from Kyle Planning and Design dated August 5, 2011;

- **Satisfied by EffiSolar's Engineer's submission of May 7, 2012 and letter from James T. Kyly (Kyle Planning) dated March 29, 2012. Confirmed by Board Engineer as per May 21, 2012 Review Letter.**

9. The applicant agrees to be bound by all stipulations made during the course of the public hearing even if not referenced within this resolution, and all conditions stipulated to by the applicant and contained within the factual findings herein are included as express conditions of approval;

- **Continuing condition.**

10. The applicant will amend the plans to provide for a 15 foot pedestrian access to the cemetery comprising of meadow grass material;

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- **Satisfied by EffiSolar's Engineer's submission of May 7, 2012.
Confirmed by Board Engineer as per May 21, 2012 Review Letter.**
11. The applicant will submit in a form satisfactory to the Township Engineer and Land Use Board Attorney a satisfactory form of permanent access easement to the cemetery lot (Lot 2.04);
- **Satisfied by EffiSolar's Engineer's submission of May 7, 2012.
Confirmed by Board Engineer as per May 21, 2012 Review Letter.**
12. This approval is subject to approval of any other governmental agencies with jurisdiction;
- **Satisfied as per Board Engineer May 21, 2012 Review Letter. The following approvals have been provided pursuant to EffiSolar's submission of March 29, 2012:**
 - a. **Warren County Soil Conservation District**
 - b. **Warren County Planning Board Exemption**
 - c. **NJDOT Minor Access Permit**
13. All fees, taxes, assessments, escrows, and other monies due to the Township of Franklin shall be paid in full;
- **Continuing Condition.**

II. Warren County Planning Board Approval

Satisfied. See attached Exhibit C.

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III. New Jersey Department of Transportation (NJDOT) Approval

Satisfied. See attached **Exhibit D**.

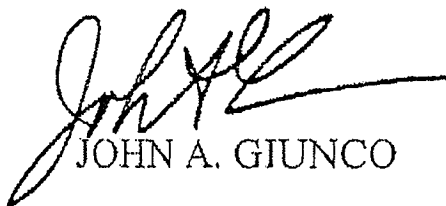
IV. Warren County Soil Conservation District

Satisfied. See attached **Exhibit E**.

Based upon our review, it is our opinion that, subject to the posting of the appropriate performance guarantees with the Municipality and completing all pre-construction matters as noted above, you may proceed to obtain building permits.

On behalf of Giordano, Halleran & Ciesla, PC, I remain,

Very truly yours,



JOHN A. GIUNCO

cc: Mark S. Bellin (via e-mail)
Larry Liu (via e-mail)
Eric Zhong (via email)
Julia Algeo, P.E. (via email)
Richard Roseberry, P.E. (via email)
Sondra L. Lohnes, Paralegal

EXHIBIT A

FRANKLIN TOWNSHIP LAND USE BOARD

RESOLUTION

DECIDED: September 7, 2011

MEMORIALIZED: October 5, 2011

MEMORIALIZING RESOLUTION OF THE
LAND USE BOARD OF THE TOWNSHIP OF FRANKLIN
APPROVING THE USE VARIANCE AND PRELIMINARY
AND FINAL SITE PLAN APPLICATION OF
EFFISOLAR ENERGY CORPORATION
RELATING TO PROPERTY DESIGNATED AS BLOCK 26, LOT 2
ON THE TAX MAPS OF THE TOWNSHIP OF FRANKLIN

APPLICATION NO.

WHEREAS, EffiSolar Energy Corporation with an address of 220-17 Fawcett Road, Coquitlam, B.C. V3K6V2, Canada (hereinafter the "Applicant") has applied to the Franklin Township Land Use Board (hereinafter the "Board") for use variance and preliminary and final site plan approval; and

WHEREAS, this application was considered at Public Hearings held by the Board on August 10, 2011 and September 7, 2011, in accordance with all of the procedural requirements, rules and regulations of the Board; and

WHEREAS, the Board hereby makes the following findings of facts and conclusions of law based on the evidence submitted to the Board at the time of the Public Hearing as well as the documentation submitted on behalf of the Applicant:

1. The Applicant was represented by legal counsel, John Giunco, Esq. It presented the expert testimony of Evan Hill, P.E. and Jennifer Schwenker, P.E., both of

Innovative Engineering, Inc. as well as Andrew Janiw, P.P. Mr. Hill and Ms. Schwenker were accepted as experts in the field of civil engineering. Mr. Janiw was accepted as an expert in the field of professional planning.

2. The Board is in receipt of the following review reports:

a) First and Second Technical Reviews issued by Finelli Consulting Engineers, Inc. ("FCE"), Township Engineer, dated August 9 and September 6, 2011 respectively.

b) Report from Kyle Planning and Design, Township Planner, dated August 5, 2011.

Specifically, the FCE Technical Review Reports comprehensively document the application submissions made on behalf of the applicant in conjunction with this application.

3. As revised during the public hearing, the applicant seeks approval for use variance and preliminary and final site plan in accordance with certain plans entitled: "Preliminary and Final Major Site Plan, Route 57 Solar Farm (W3-077)" revised August 23, 2011 consisting of 24 sheets (hereinafter the "plans").

4. The subject property is designated as Block 26, Lot 2 and is owned by Robert A. Santini and Jane M. Santini who have granted their consent to this application. The Applicants are contract purchasers of the subject property, and have the right to request the relief sought herein. The property is located in the Township's C-2 (Township Commercial) district. It comprises approximately 86.5 acres and is located approximately 3,000 feet west of Asbury-Broadway Road. As summarized in

the respective review reports and testified to by Mr. Janiw, the site is surrounded on the North, South and West side by deciduous forest and hedgerows with the northern half of the east side of the property being lined with a hedgerow as well. The site is currently farmed and was described as containing largely prime agricultural soils. Located interior to the subject property is a small lot designated as Block 26, Lot 2.04 containing approximately 0.19 acres. This property was described as being an old family cemetery plot. Supplementing the description of the subject property referenced above, the site generally slopes northwesterly to southeasterly from Route 57 to wetlands which are generally located on the westerly portion of the site bounding an unnamed creek as well as along the southerly property line bounding the Pohatcong Creek. Elevations contain an average slope of 3.6% from north to south. The above referenced wetlands are the subject of a pending NJDEP Fresh Water Wetlands Verification application. The plans additionally detail the environmental constraints associated with the property inclusive of the wetlands transition areas, 300 foot riparian buffer, floodway line, and flood hazard elevation demarcations.

5. The applicant proposes the installation of what is commonly referred to as a photovoltaic electric generation system a/k/a solar farm together with associated ancillary facilities. The solar farm will comprise approximately 61 acres of the 86.5 acre tract. Access to the solar farm will be via an existing gravel drive from New Jersey State Highway Route 57 located just east of existing Lot 2.03 as specifically detailed on Sheet 7 of the plans. The solar farm will be surrounded by an 8 foot high chain link fence. A 25 foot emergency/maintenance access aisle will surround the property. In order to insure access to the existing cemetery plot (designated as Lot 2.04), the

applicant agreed to provide a permanent access easement in a form satisfactory to the Land Use Board attorney and engineer insuring rights of access to the cemetery. In addition, a 15-foot pedestrian access way will be provided to insure physical access utilizing the same groundcover – meadow grass.

6. This application proposes the construction of a photovoltaic system. In this case, it proposes to be groundmounted, for the purposes of providing electrical power. Specifically, the proposal involves the construction of a 12.62 megawatt groundmounted system involving approximately 45,556 solar panels and 13 inverter pads. Exhibit A-1 depicts a physical description of the respective solar panel. The applicant testified that the respective solar panels will be "substantially similar" to that of A-1 and would maintain the same face material in texture. The panels themselves will measure a maximum 4.2 feet in height, and are designed at a maximum tilt angle of 20 degrees. Relevant technical specifications concerning the solar arrays are contained on sheet 24 of 24 of the referenced plans. The 13 proposed inverter pads will be approximately 8 feet in height and 3 feet wide. The central purpose of the inverter pads is to convert DC electrical current to AC. Thereafter the AC current will exit the inverter pads via underground electrical wiring and connect to the existing electrical distribution system. The solar panels are based on a pole mounted foundation system that is essentially driven into the ground with a ± 6 foot post depth. These pole foundations support a metal frame to which the solar panels are then mounted. The applicant testified that in accordance with the conclusions of its environmental and development impact statement the use of this type of foundation system minimizes ground disturbance and the production of excess excavation spoils. The applicant proposes

the installation of a low maintenance meadow grass throughout the area of the proposed improvements. There are no EPA measured air pollutants generated by the proposed facility. The stormwater management report prepared by the applicant for the proposed project concludes that there is no net increase in stormwater runoff resulting from the proposed improvements. The proposed engineering design incorporates flow drainage characterized as a non-structural NJDEP recommended best management practice for minimizing potential for dissolved solids and pollutants impacting wetlands and surrounding areas. The solar panels were specifically designed to maintain clearances of 2 feet from the ground surface in an attempt to avoid any flood waters generated. The project will not generate any wastewater flows, and there is accordingly no impact on existing sanitary wastewater systems or groundwater. With respect to the potential issue of noise generation, any noise associated with the facility is limited to the inverters and heating/cooling equipment located in the inverter containment structures. Based on the specifications of such equipment, the expected noise level reading is less or equal to 65 dba at the noise source. The equipment itself is located inside the containment structures further reducing the noise levels at the exterior of the structure. These containment structures are located greater than 750 feet from the nearest residential dwelling (480 feet to the nearest residential property line). The applicant indicates that the noise level will be consistent with existing background noise levels at the property line and will be in compliance with NJDEP noise requirements. The only required maintenance to the site exclusive of construction are periodic technician visits to the site measuring approximately two visits per month. The maintenance visits will involve one maintenance vehicle per visit. As referenced above, the property is subject

to certain environmental constraints inclusive of wetlands, buffers, flood hazard area and a 300 foot riparian buffer. The applicant indicates that there is no proposed disturbance within either the wetlands and/or wetlands buffer area. Disturbance is, however, proposed within the 300 foot riparian buffer zone as well as the flood hazard area necessitating the obtaining of a NJDEP Flood Hazard Area Individual Permit. The applicant indicates that based on preliminary discussions with the NJDEP, it is confident that the required NJDEP permits will be granted. The applicant further stipulated that if in fact any NJDEP permit is denied resulting in the loss of the ability to construct a specified number of panels, the applicant will not seek to compensate for the loss of panels in other areas, and the project would accordingly be downsized by the respective loss of the panels as a result of the denial by the NJDEP of the respective permit. The applicant further stipulated that within 60 days of the denial of any permit, it would provide the Land Use Board with notice of same and submit revised plans reflecting the reduced scope of the project within 60 days of the date of the permit denial. No signage is proposed with the potential exception of one two foot by three foot identification sign.

7. During the course of the public hearing process, the applicant and the Board engaged in lengthy discussions concerning the potential visual impact associated with the solar array and related appurtenances. It is, of course, noted that the solar panels themselves will rise only to a maximum height of 4.2 feet above ground level at their highest point with the panels fixed at a maximum 20 degree angle facing southwest. The inverters would only be 8 feet tall and located to the interior of the project. Essentially based on the plan and testimony submitted and the review report of

the Township Planner, the Board is able to reach the conclusion that the facility will largely be screened from view from Route 57 at least during late Spring and Summer months with the possible exception of the southeast corner of the project where there exists no hedgerow. There is some potential visual impact to the south side of Good Springs Road and potentially from residents higher up on the slope to the south. It is noted that the vegetation which provides the visual mitigating factor is largely deciduous and therefore there will be potential visibility in the Fall and Winter months. While the Board is satisfied that for the most part there will be a de minimis visual impact on surrounding properties inclusive of passing motorists or other users of Route 57, cooperatively the applicant did suggest certain conditions which can further help reduce the appropriate detrimental effects of any visual impact associated with the proposed solar facility. These included the fact that in order to ultimately access the visual impact in a worse scenario during Fall and Winter months, after the facility is constructed, the respective Township professionals and representatives of the applicant (together with a representative of the Heritage Conservancy as further discussed below) will meet onsite to develop a supplemental landscaping plan to ensure the existing maximum landscape buffer is provided and maintained to mitigate any visual impact. The Board retains jurisdiction in the event there is any dispute as to any requirements in the imposition of supplemental landscaping. In addition, the applicant stipulated that it will execute a conservation easement effective during the term of the solar facility's existence to ensure the maintenance of all onsite landscaping. Furthermore, it is noted that a certain portion of the vegetative buffer which provides a mitigating visual impact is located on adjoining property. A condition is herein imposed that if any such

landscaping on adjoining property is not maintained or otherwise ceases to exist, the applicant agrees as an ongoing condition of approval to provide supplemental landscaping on site insuring that to account for the loss of any vegetative buffer that may be located off site.

8. The applicant has submitted a certain report dated as of June 11, 2011 entitled "Generation Interconnection System Impact Study Report for PJM Generation Interconnection Request Queue Position W3-077 Broadway-Stewartsville 34.5kV." The purpose of the report was to present a plan to connect the subject property's interconnection project to the PJM network and to determine the feasibility of same. The applicant has proffered the report and based on its discussion with PJM has confirmed that there is fundamental feasibility of the project. As a specific condition of approval, the applicant will submit its formal ultimate contractual agreement with PJM prior to the commencement of any construction, with any proprietary information redacted.

9. The applicant has also submitted a Maintenance and Land Surface Management Plan dated August 23, 2011. This report summarizes the applicant's proffered testimony relative to maintenance. It confirms that the project is designed to have no water use for electricity generation, provides that the facility is monitored offsite through the use of a monitoring system that provides real-time performance parameters to an offsite monitoring/management facility; provides that the facility will be inspected on a monthly basis to insure all fencing, landscaping and access roads are appropriately maintained; provides that there is not any anticipated need to wash the solar panels but if so required on a limited basis, individual panels would be washed

using environmentally-friendly detergents and potable water; and further notes that the ground surface cover throughout the solar farm will consist of low-maintenance meadow-grasses. It further provides that if in fact the solar farm is decommissioned, the solar components and fencing will be removed from the site in accordance with a submitted Decommissioning Plan. That Decommissioning Plan dated as of August 23, 2011 provides for a Decommissioning Plan based on removal of all panels and related appurtenances; the removal of foundations and any access roads not wanted for future purposes; replacement of surface materials to a depth of surrounding disturbed lands and planting with native species dependent upon time of year as well as otherwise providing for a comprehensive decommissioning process description addressing the means of solar farm and mast disassembly; the removal of electrical appurtenances; the removal of access roads; and the removal of any concrete foundations as well the removal of any distribution lines.

10. The applicant seeks a use variance pursuant to N.J.S.A. 40:55D-70d(1) based on the fact that solar farms are not a permitted use in the C-2 Township Commercial Zone District. Within that district, permitted uses include, but are not limited to, local retail activities, service activities, hotels, banks and savings institutions, restaurants, office buildings, shopping centers and agricultural uses. Since a solar farm is not a specified permitted use, a use variance is required pursuant to N.J.S.A. 40:55D-70d(1). The application as designed otherwise meets the bulk requirements of the C-2 Zone District. As in all cases associated with a use variance pursuant to N.J.S.A. 40:55D-70d(1), an applicant must satisfy both the positive and negative criteria. By virtue of the recent amendment to the New Jersey Municipal Land Use Law,

solar farms are by definition classified as what is commonly referred to as inherently beneficial use. Specifically, pursuant to N.J.S.A. 40:55D-4, an inherently beneficial use in pertinent part is now defined to include a "solar or photovoltaic energy facility or structure." By virtue of the fact that the legislature has determined that such facilities are an inherently beneficial use, that in itself is deemed to legally satisfy the so-called "positive criteria." That does not, however, end the applicant's burden. It must also satisfy the required negative criteria. As applied to inherently beneficial uses, the applicant is required to satisfy what is commonly referred to as the Sica balancing test providing for a four part criteria to satisfy the negative criteria. Based on the review analysis prepared by the Township Planner and the expert testimony presented by the applicant's Professional Planner, the Board is satisfied that the negative criteria under the Sica balancing test has been satisfied, and the applicant is entitled to the grant of the use variance. The Board specifically notes as follows. The first part of the Sica balancing test requires the Board to identify the public interest at stake recognizing that some uses are more compelling than others. The Board notes that the Legislature has determined by definition that the use is inherently beneficial. It further recognizes that such systems are proposed for the purpose of generating clean electrical power to reduce our society's dependence on fossil fuels and its intended impact on the environment. The Board is satisfied that by virtue of the Legislature's classification of this use as inherently beneficial, that a significant public interest is at stake. The second part of the Sica balancing test requires an identification of a detrimental impact. Discussion has been previously articulated within this resolution summarizing the fact that, with the exception of visual impact, the facility here is generally characterized as a

benign or passive use with minimal maintenance visits and minimal on-site impacts. The critical inquiry, if any, relates to visual impact. The Board is satisfied that by virtue of the fact that the solar arrays will only extend to a maximum height of 4 feet 2 inches and the inverter pads to a maximum of 8 feet, that, taken together with the existing vegetative buffer, allows the Board to conclude that there is no significant detrimental effect which will ensue from the grant of the variance. The Board is satisfied to the extent there is a potential visual impact, same can be addressed by the imposition of conditions herein relating to an on-site post construction process whereby the Township Planner together with the applicant will review the facility once constructed and implement a supplemental landscaping if so required to address any visual impact that might ensue and that might not otherwise be addressed by the existing vegetative buffer. The third part of the Sica balancing test requires an analysis of whether there are any conditions which may be imposed which may have the effect of reducing detrimental effects. The Board is satisfied that with the conditions just articulated relative to a post construction supplemental landscaping process, as well as other conditions of approval herein imposed will mitigate any visual impact associated with the facility. This includes, but is not limited to, the imposition of a condition which will require the applicant to submit a conservation easement during the term of the solar farms operation to insure that any existing landscaping is maintained, and a further condition that the post construction landscaping review process provides for a contingency in the event that any off-site landscaping which serves as a visual buffering no longer exists, that supplemental landscaping may be provided on site to account for the loss of any off-site landscaping. The fourth part of the Sica balancing test requires

the applicant to balance the positive and negative factors. As expertly noted by the Town's Planner, there are a number of conditions that have been imposed which will serve to reduce negative impact that must be considered as part of the balancing test. In addition, it is noted that given the fact that the use here is an inherently beneficial use, the negative impacts in conjunction with the balancing, would have to be greater than those associated with other types of uses in order to qualify for substantial negative impact. The Township Planner further notes that the phrase "substantial" is a relative term particularly when dealing with an inherently beneficial use, and opined that in this case substantial detriment would have to represent an irreparable loss with respect to the character of the neighbor and/or the resources of the Township. The Board is able to conclude that with the conditions herein imposed there is in fact no substantial impact given the fact that the use here is one that has been classified by the Legislature as an inherently beneficial use. The positives substantially outweigh the negatives and the applicants are entitled to the grant of the requested use variance relief.

11. The Board is further satisfied that with the conditions herein imposed and the applicants express stipulation that it will comply with all recommendations of the FCE initial Technical Review Reports (the same being both the first and second Technical Review) as well as the recommendations contained within the August 5, 2011 Review Report of Kyle Planning and Design that all issues associated with the implementation of the site plan have been satisfactorily addressed and that the applicant is entitled to the grant of both preliminary and final site plan approval. It was noted during the course of the September 7, 2011 Public Hearing that the Township

Engineer had not issued a formal report for final site plan approval. In this case, the applicant agreed to the standard conditions associated with bonding, pre-construction conference, and those conditions normally associated with the grant of final site plan based on the applicant's request for the simultaneous approval of both preliminary and final site plan approval at this time. The grant of final site plan approval will be subject to the standard recommendations associated with the grant of final site plan approval as reasonably determined by the Township Engineer.

12. The Board notes the participation of the Heritage Conservancy pursuant to a letter dated August 9, 2011. In furtherance of that correspondence, Karen S. Williamson appeared before the Board providing valuable insight as to the goals and objectives of the Heritage Conservancy and her concerns relating to this project. It is noted that representatives of the applicant met with Ms. Williamson in an attempt to address her concern, and the Board compliments both parties and their cooperative efforts to attempt to satisfactorily respond to the issues and concerns raised by the Heritage Conservancy. While articulating a number of comments concerning the proposal, the Board understands that perhaps the primary concern of the Heritage Conservancy is that of potential visual impact to the Route 57 scenic corridor. The Board is satisfied that given the relative de minimis visual impact that will be associated with this project that the goals and objectives of the scenic highway will not be impacted by this proposal. The Board, however, notes that in order to further address any legitimate concerns of the Heritage Conservancy specifically as to visual impact, that Ms. Williamson or another representative of the Heritage Conservancy is invited to participate in the supplemental landscaping process after construction to insure that

any reasonable or legitimate concerns of the Heritage Conservancy may be addressed in an effort to further mitigate any visual impact.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Township of Franklin that the preliminary and final site plan application as well as that of the applicant's request for use variance is hereby approved subject expressly to the following conditions herein imposed:

1. Based on the recommendation from the Township Fire Department, the plans should be amended in general accordance with Exhibit A-5 to show the addition of two east/west pathways of ± 19 feet 3 inches to provide additional access to the Township Fire Department and emergency services.

2. Subsequent to the construction of the solar farm, an on-site meeting will be conducted by representatives of the applicant and the Township Planner to develop a supplemental landscaping plan to provide the maximum vegetative buffer to mitigate any visual impact to offsite properties and the objectives of the Route 57 scenic corridor. A representative of the Heritage Conservancy will be invited to that meeting. The meeting is contemplated to take place at such time of the year where the full impact of the facility may be assessed and where the mitigating existing vegetative buffer of the deciduous trees are not present. As a result of the recommendations of the Township Representatives, the applicant will if so required present a supplemental landscaping which shall be incorporated as a condition of approval. The supplemental landscaping will also provide for a mechanism whereby if any existing offsite landscaping buffer no longer ceases to exist or otherwise is not maintained, the

applicant will provide additional onsite landscaping to account for the loss of such offsite landscaping. The Board retains jurisdiction in the event there is a dispute concerning the sufficiency of the post landscaping approval.

3. The applicant will submit a conservation easement in a form satisfactory to the Board, Township Engineer and Land Use Board Attorney insuring the continued maintenance of all onsite landscaping during the time that the solar farm continues to operate at the subject property.

4. The applicant will agree to such reasonable conditions as may be imposed by the Township Engineer in conjunction with the grant of final site plan approval which shall include, but not be limited to, standard conditions associated with bonding, a pre-construction conference, and such other conditions as are reasonably imposed relative to the grant of final site plan approval.

5. The applicant will submit a copy of a fully executed contractual agreement with PJM.

6. The applicant will provide, at the request of the Township Fire Department and any other emergency service personnel, specific on-site training relating to the specifics of the proposed solar farm installation.

7. In the event that there is any DEP permit denied which results in the loss of the right to construct solar panels, the plan will accordingly be downsized such that the number of solar panels will be accordingly reduced. Within 60 days of the denial of the applicable NJDEP permit, the applicant will submit revised plans depicting the loss of the respective solar panels.

8. The applicant will comply with all recommendations that have not been incorporated into the plans herein set forth contained within the FCE Review Report dated August 9 and September 6, 2011, and from Kyle Planning and Design dated August 5, 2011.

9. The applicant agrees to be bound by all stipulations made during the course of the public hearing even if not referenced within this resolution, and all conditions stipulated to by the applicant and contained within the factual findings herein are included as express conditions of approval.

10. The applicant will amend the plans to provide for a 15 foot pedestrian access to the cemetery comprising of meadow grass material.

11. The applicant will submit in a form satisfactory to the Township Engineer and Land Use Board Attorney a satisfactory form of permanent access easement to the cemetery lot (Lot 2.04).

12. This approval is subject to approval of any other governmental agencies with jurisdiction.

13. All fees, taxes, assessments, escrows and other monies due to the Township of Franklin shall be paid in full.

IN FAVOR OF THE BOARD ACTION TAKEN ON SEPTEMBER 7, 2011 APPROVING THIS APPLICATION.

OPPOSED: 0

ABSTAINED: 0

The undersigned Chairman of the Franklin Township Land Use Board hereby certifies that the within is a true copy of the Resolution memorializing the action taken by the Land Use Board at its meeting held on September 7, 2011 which was adopted by the Board at its meeting on October 5, 2011.

TOWNSHIP OF FRANKLIN LAND USE BOARD

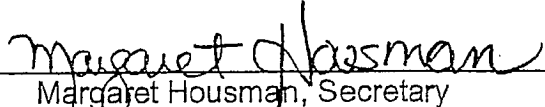

Margaret Housman, Secretary

EXHIBIT B

Proof of Publication Notice in The Express Times

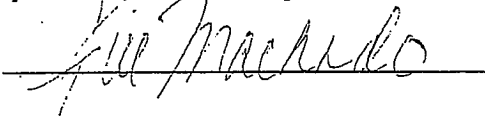
Under Act No. 587, approved May 16, 1929

State of Pennsylvania
County of Northampton

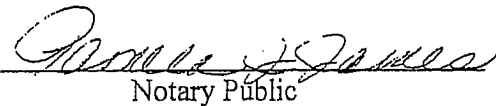
Jill Machado being duly sworn, deposes and says that The Express Times is a daily newspaper published at 30 N. 4th St, Northampton County, Easton, Pennsylvania which was established in the year 1855, since which date said daily newspaper has been regularly published and distributed in said County, and that copy of the printed notice of publication is attached hereto exactly as the same was printed and published in the regular editions and issues of said daily newspaper on the following dates

October 11, 2011

Affiant further deposes and says that she is an employee of The publisher of said newspaper and has been authorized to Verify the foregoing statement and that she is not interested In the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statement as to time, place and character of publication are true.



Sworn to and subscribed before me
This 11th. Day of October, 2011



Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Pamela J. James, Notary Public
City of Easton, Northampton County
My Commission Expires Sept. 26, 2013
Member, Pennsylvania Association of Notaries

**NOTICE OF DECISION
LAND USE BOARD OF THE
TOWNSHIP OF FRANKLIN
WARREN COUNTY, NEW JERSEY**

PLEASE TAKE NOTICE that on October 5, 2011, the Land Use Board of the Township of Franklin (the "Board"), memorialized a resolution which granted approval to EffiSolar Energy Corporation ("EffiSolar" or the "Applicant") for Preliminary and Final Major Site Plan approval and use variance approval, to construct a ground-mounted solar panel facility ("Solar Facility") on property located along Route 57, also known and designated as Block 26, Lot 2 on the Franklin Township Tax Map (the "Property") (Block 26, Lot 2.04, approximately 0.19 acres, exists in the center of the Property, and no development is proposed for Block 26, Lot 2.04). The Property is located in the Franklin Township C-2 (Township Commercial) District (the "C-2 District") and consists of approximately 86.5+/- acres.

A copy of the resolution and supporting documentation has been filed in the office of the Board Secretary and is available for public inspection during regular business days and hours.

EffiSolar Energy Corporation
c/o Giordano, Halleran & Clasla, P.C.
125 Half Mile Road, Suite 300
Red Bank, New Jersey 07701-6777
Attorneys for the Applicant
Dated: October 7, 2011

**NOTICE OF DECISION
LAND USE BOARD OF THE TOWNSHIP OF FRANKLIN
WARREN COUNTY, NEW JERSEY**

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EffiSolar Energy Corporation
c/o Giordano, Halleran & Ciesla, P.C.
125 Half Mile Road, Suite 300
Red Bank, New Jersey 07701-6777
Attorneys for the Applicant

Dated: October 7, 2011

EXHIBIT C

WARREN COUNTY PLANNING DEPARTMENT
WAYNE DUMONT, JR. ADMINISTRATION BUILDING
165 COUNTY ROAD 519, SOUTH
BELVIDERE, NEW JERSEY 07823-1949

DAVID K. DECH
PLANNING DIRECTOR



Telephone: (908) 475-6532
Fax: (908) 475-6537
planningdept@co.warren.nj.us

June 7, 2011

Ms. Margaret Housman, Secretary
Franklin Township Land Use Board
PO Box 547
Broadway, NJ 08808-0547

Re: **Exempt after Review**
EffiSolar Energy Corp.
File No. 11-012-SP

Dear Ms. Housman:

The Warren County Planning Department has reviewed the preliminary/final site plan application for EffiSolar Energy Corporation, File No. 11-012-SP, Block 26, Lot 2, located on NJSH 57. It has been determined that, in accordance with N.J.S.A. 40:27-6.6e, the proposed site plan is exempt from formal review by the Warren County Planning Board.

I am returning one signed copy of the map for your files.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Miller".

Richard A. Miller
Principal Planner

njd
Enclosure

c: EffiSolar Energy Corporation
Giordano Halleran & Ciesla
Innovative Engineering, Inc.
Walter Van Lien, Construction Official
Finelli Consulting Engineers
WC Soil Conservation District

EXHIBIT D

85 - CLK# 2520

FORM MT-32A ACCESS CONFORMING LOT PERMIT NUMBER A-57-N-0012-2011

The rights accorded and obligations imposed by this permit are binding upon all successors in interest in the lot referenced below.

PERMITTOR: NEW JERSEY DEPARTMENT OF TRANSPORTATION
1035 Parkway Avenue
Trenton, NJ 08625

PERMITTEE: Effisolar Energy Corp
220-17 Fawcett Road
British Columbia, Canada
Coquitlam, BC V3D6V2

LOCATION: MUNICIPALITY: Franklin

ROUTE: 57

BLOCK: 26

LOT: 2

RECEIVED
JAN 31 2012
Regional Operations
Permits

PERMIT TYPE: Commercial Use

ACCESS TYPE: Minor

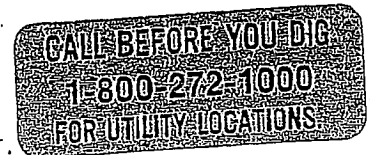
COUNTY: Warren

DIRECTION: EB

MILEPOST: 6.00

CONTROL SECTION: 2105

The Permittee is hereby granted the right to construct, maintain, and use access connecting to a State highway under the terms and conditions of this permit and attached plan, which is made a part hereof entitled:



This is for 1 driveway(s) which provides access to this site:

Description: Solar Renewable Energy Facility - Size: 1 FACILITY.

TRAFFIC VOLUMES: This permit is valid for two-way traffic volumes which follow. These traffic volumes are based upon the ITE (5th Edition) average trip generation or Land Use Code Y47 or superseding rates adopted or approved by the Department. The actual traffic volumes generated by this lot for this use may differ from those listed. This permit addresses traffic which directly access the State highway.

PEAK HOUR VOLUME:	2	AM	2	PM	2	WEEKEND
DAILY TRAFFIC VOLUME:	4	WEEKDAY	4	WEEKEND		

A violation of this permit will occur if there is an expansion or change this use which will result in the traffic volumes exceeding one of the peak hour and one of the daily volumes listed below:

PEAK HOUR VOLUME:	102	AM	102	PM	102	WEEKEND
DAILY TRAFFIC VOLUME:	4	WEEKDAY	4	WEEKEND		

CONDITIONS: Additional conditions are attached hereto and incorporated herein.

Robert S. Suter 11-11-11 OWNER

** Effisolar Energy Corp Date Title

[] Power of Attorney (check here) Include copy of Department POWER OF ATTORNEY DECLARATION (Form MT-156)

(Do Not Write Below) DEPARTMENT USE ONLY

PREPARED AND APPROVED BY: Scott S. Sheldon For Date: 03-09-12

** John Gahwyler **
** Reg. Maint. Engineer **

Permit Expiration

This Permit shall expire if;

1. the Permittee violates any permit condition;
2. the Permittee:
 - A. changes the number of driveways,
 - B. changes the width of any driveway by more than 5 feet,
 - C. changes the location of any driveway by more than 10 feet,
 - D. locates any driveway within 12 feet of the extended property line,
 - E. locates any driveway within 24 feet of another driveway,
 - F. changes the materials which comprise the driveway;
3. the use of the lot served by the permit is expanded or changed resulting in a significant increase in traffic;
4. the lot covered by the permit is subdivided or consolidated with another lot;
5. work is not started within two years of the date this permit was issued unless stated otherwise in this permit.

When the construction work under this permit is started within two years of the date of permit issuance but cannot be completed in the indicated time, the permit shall expire or the Permittee shall request an extension of time in writing from the appropriate Regional Maintenance Office and submit the required renewal fee in the form of a check or money order. The Department may approve one one-year extension.

This permit is issued in accordance with the State Highway Access Code, and is based upon the information submitted by Permittee. Any changes in traffic volumes, drainage, type of traffic or other operational aspects may cause this permit to expire, requiring a new permit to be issued based upon existing conditions. This permit is only for the use and purpose stated in the application and permit.

Access Construction

All work shall be done to the satisfaction of the Department.

No work in connection with this permit shall be started until the permit is effective.

The Permittee shall notify the Department's Regional Permits Office at least 2 weeks prior to beginning any work authorized by this permit.

The Permittee shall complete the access in an expeditious and safe manner and according to the terms and conditions of this permit.

After the Permittee constructs the access and meets all conditions of the permit, the Permittee shall notify the Regional Maintenance Office, in writing. Within 30 calendar days of its receipt of the notice, the Regional Maintenance Office will notify the Permittee if any corrective action is required by the Permittee.

Permit Scope

This permit is for only the lot noted above. The Permittee is responsible for all traffic crossing the frontage of the lot regardless of the origin or

destination of the traffic. This includes all traffic crossing the lot frontage over an easement.

The Permittee agrees to comply with the rules and regulations of the New Jersey Department of Transportation as set forth in the State Highway Access Code, N.J.A.C. 16:47, and the conditions included on this permit. This permit is only for the use and purpose stated in the application and permit. In addition, the Permittee understands N.J.S.A. 27:7-44.1 makes any violation of the provisions of this permit subject to a fine (not exceeding \$100 per day) and civil action for the costs of prosecution as well as civil action for trespass to remove any access which does not meet these requirements.

This permit is granted subject to the covenants, premises, terms and conditions set forth herein and made a part of this revocable permission or privilege.

This permit cancels and supersedes any and all permits that may have been previously issued for this lot.

This permit does not relieve the Permittee from obtaining necessary permits from other agencies or governments.

All conditions of this permit are subject to modification by the Department to suit any unforeseen traffic and/or field conditions.

When work authorized herein is not performed in conformance with the required conditions of this permit, the Department may order the Permittee and his contractor to cease work and remove his equipment from Department right of way.

Access Maintenance

The Permittee may perform maintenance and in-kind replacement of the driveways.

Maintenance work may be done anytime within daylight hours as long as no interference to traffic is caused.

No changes or alterations to driveways may be made at any time without permission from the Department.

The Permittee shall be responsible for perpetual maintenance of curb and sidewalk and for landscape maintenance including irrigation, litter removal, weed control and mowing from edge of pavement to the right-of-way line.

Traffic Protection

Adequate advance warning for motorists approaching the construction site is required at all times during access construction, in conformance with the "NJDOT Standard Roadway Construction/Traffic Control/Bridge Construction Details" and the "Manual on Uniform Traffic Control Devices for Streets and Highways". This may include the use of signs, flashers, barricades, drums, and flaggers.

Permit Display

The Permittee shall make a copy of this permit available for review at the construction site.

Department Authority

The Department may revoke this permit; reconstruct, remove, or replace the access;

and then issue a new permit, all without cost to the lot owner.

Costs

The cost of construction work and material shall be entirely at the Permittee's expense. The Department will not share in any expense whatsoever or do any construction work pertaining to access driveways.

Protection From Suits

The Permittee shall defend, indemnify, protect and save harmless the State and its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of, any negligent act, error, or omission of the Permittee, its agents, servants, and employees in the performance of the work covered by this permit.

Protection of the General Public

The Permittee shall properly safeguard all work performed under this permit and when necessary, maintain sufficient warning lights, and Department approved signs and safety devices for the protection of the general public until all work has been completed.

Protection of Structures and Drainage

There shall be no interference with structures on, over, or under the highway. Interference with drainage installations shall be avoided. The existing cross section and drainage of the highway shall not be disturbed. The longitudinal flow of water along the gutter line shall not be interrupted. The Permittee is responsible to make adequate provision for all transverse, lateral, and longitudinal drainage affected by construction.

Curb Depressions

Where it is necessary to depress existing curbs for the purpose of constructing access, the full section of curb shall be entirely removed and a depressed curb constructed in accordance with Department standards. The top of the depressed section shall be 1-1/2 inches higher than, and parallel to, the established gutter grade. The dimensions shall be 4" x 9" x 16" and the concrete proportions shall consist of one part Portland cement, one and three-fourths parts sand, and three and one-half parts crushed stone or washed gravel. Curved sections of existing curbs shall not be broken or depressed except under very exceptional conditions.

Depressed curb shall be constructed as a continuation of the concrete vertical curb. Driveway curb returns (radii) shall be separated from the highway curb by means of a piece of 1/2" thick preformed expansion joint filler butting to the back of the longitudinal curb.

All existing curb depressions other than those covered by this permit shall be closed by the construction of standard (9" x 16") white concrete vertical curb, in accordance with the Department's specifications and attached details.

Driveways

Driveways shall be constructed in accordance with locations, dimensions, and materials shown on the attached plans.

Parking

There shall be no parking on any unpaved portions of Department right of way.

Materials and Workmanship

Materials and workmanship used in construction within Department right of way shall be in accordance with the Department's Standard Specifications and are subject to inspection and approval of the Department. Where conditions warrant, the Department may assign an inspector to the project at the expense of the Permittee. The Department shall reserve the right to demand from the Permittee as a condition of this permit, a bond or certified check in an amount sufficient to guarantee or insure the proper maintenance or restoration of the area disturbed.

Traffic Signals

All equipment shall be installed in accordance with the Department Standards and Specifications under Department supervision. At the request of the Permittee, the Department may perform the signal modification. The cost of the signal modification work and all electrical equipment will be entirely at the Permittee's expense.

Any damages to Department traffic signal detection equipment or other electrical facilities will be repaired by the Department and the Permittee shall pay for the costs of the repairs.

Advertising Structures

Advertising signs shall not be erected on or overhang any portion of the Department right of way. Small signs with the message "Enter", "In", "Exit", "Out", designating access are permitted if shown on the attached plans. Signs shall be in accordance with all Department regulations including those for size, shape, color, and height.

Right of Entry

The Permittee authorizes Department representatives to enter upon the lot for the purpose of performing a site investigation. Furthermore, there are no objections in parking of a Department vehicle on the lot if necessary while taking field measurements and other data.

Landscape

Ground cover within Department right of way shall consist of topsoil, fertilizer, and seeding or topsoil and sodding. No shrubs, gravel, or railroad ties are permitted.

Curb

The Permittee shall remove all existing curb to the nearest expansion joint and replace it with new standard and depressed curb conforming to the approved plan. Curb, apron, gutter or sidewalk shall not be poured monolithically. Depressed curbing shall not be constructed as an integral part of concrete ramps.

When transition from 8" to 6" curb face is required, this will be accomplished within not less than 10', but not more than 20', as field conditions permit, or as directed by the permit inspector.

Curb, sidewalk, and other concrete facilities shall not be constructed within the Department right of way between November 1st and March 15th.

Sidewalk

When proposed sidewalk is to be placed adjacent to areas that have 8" curb face, the transition of the sidewalk will be at the same rate as the transition from the 8" to 6" curb face, or as directed by the permit inspector.

Sidewalk shall be Class B air entrained concrete, four inches thick, except at the driveway apron. This concrete shall be six inches thick on a properly prepared subbase and in accordance with Department specifications and the attached detail.

Sidewalk disturbed by work related to this permit shall be replaced to match the adjacent existing sidewalk in width and color, and shall be Class B concrete at a minimum of four inches thick.

Drainage

No additional surface water will be accepted on the Department right of way. Surface water shall continue to follow its existing flow pattern.

Pavement Excavations

Excavations within the existing roadway or shoulder shall be sawcut on a line parallel to the curb prior to final restoration.

Pavement Grades

Existing cross slopes and gutter grades shall be maintained except where specifically approved to be changed.

Pavement Surface

All bituminous surfaces disturbed during the construction of curb shall be restored to original conditions or better.

Snow

In the event of a snow alert, the Permittee shall be required to take whatever steps are necessary to secure the traveled way for snow removal operations.

Work hours

The Department may restrict the hours of work on or immediately adjacent to a State highway due to peak-hour traffic demands or other pertinent roadway operations.

The Permittee shall not interfere with the normal flow of traffic, reduce the number of traffic lanes, or change any traffic pattern prior to 9:00 AM or beyond 3:30 PM on weekdays and all day on weekends and holidays. If work is performed during other than the normal weekday working day (8 am to 4:30 pm), the Permittee shall deposit sufficient funds with the Department to pay all costs for the time that is required to be spent on the job by the Department's Permit Inspector.

Traffic Directors

Competent uniformed traffic directors shall be employed at every location where equipment is working immediately adjacent to, or is entering, leaving, or crossing active traffic lanes. Traffic directors shall be utilized while all such conditions exist. Uniformed trained traffic directors are to be provided, as required or requested by Department Representatives.

Curb Ramps

Access Points with radius curbing within an area which has existing or proposed sidewalks shall be constructed or reconstructed to provide ramps for the handicapped conforming the Department's standard detail CD-606-1.

Utilities

The Permittee shall reimburse the Department for all costs incurred for the relocation and/or replacement of its utility lines and equipment.

Safety

The Permittee shall provide sufficient advance warning signs, lights, cones, barricades, and other approved safety devices in accordance with "The Manual on Uniform Traffic Control Devices."

Two-way traffic shall be maintained at all times.

Not more than one-half of the State highway shall be occupied at any time.

No portion of trench over 2 inches in depth shall be left open overnight, on weekends, or holiday. Any trench or excavation within 30 feet of the traveled way shall have escape ramps at 6:1 slope provided overnight.

Uniformed trained traffic directors are to be provided, as required or requested by Department representatives.

Tree Removal

The Department has no objection to the removal of the tree(s) as shown on the plans at the Permittee's cost and expense.

Two-Year Restoration Guarantee

The Permittee will properly restore to the satisfaction of the Department any portion of the State highway which it may have disturbed, and will maintain it to the satisfaction of the Department from any settlement or depression resulting from this work for a period of one year after approval of such restoration by the Department. If settlement occurs during the one-year period of time the Department will require that the necessary restoration be made by the Permittee.

Trees

The Department will hold the Permittee responsible for a period of two years to guarantee the life of the trees which are encountered within the limits of construction. Any tree that is destroyed shall be replaced by type of species. The size of the tree will be determined by the Department landscape forces.

Maintenance of Access Points

The Permittee is responsible for maintenance of the access point to the longitudinal gutterline of the State highway.

Maintenance of Drainage Facilities

The Permittee shall maintain any drainage facilities outside the Department right of way.

Additional Traffic Safety Conditions

The Permittee will not be permitted to store material or park equipment within Department right of way or within 30 feet of the edge of the traveled way except as necessary during actual working operations and then only by permission of the Permit Inspector.

All work is subject to inspection by Department personnel to insure that adequate traffic protection devices are being used and are properly placed and maintained. If it is found that insufficient traffic protection is provided, the Permit Inspector will advise the Permittee of the deficiencies. If the deficiencies are not immediately corrected, the Permit Inspector will advise the Permittee that he is prohibited from further work within the Department's jurisdiction until such time as approved and adequate traffic protection is provided.

Trenches shall not be left open overnight. Steel plating shall not be utilized between November 1st and April 30, inclusive.

The Permittee shall contact all utilities for location and mark out.

Plan Errors

All work shall conform to the plans on file with the Department (if discrepancies arise, this permit shall take precedence over plans). The Department plan review is only for the general conformance with the Department design and Access Code requirements. The Department is not responsible for errors, omissions, or the accuracy adequacy of the design, of dimensions, and elevations which shall be confirmed and correlated at the site. The Department through the approval of the permit, assumes no responsibility other than stated above and completeness and/or accuracy of the plans.

Specifications

The work shall follow the applicable construction specifications set forth by the Department in the latest "Standard Specifications for Road and Bridge Construction", and the M.U.T.C.D.

Construction signs, when not in use, shall be covered as specified in the Standard Specifications.

Damages

Any damage to any present highway facilities shall be repaired immediately and prior to continuing other work. Any mud or other material tracked or otherwise deposited on the roadway shall be removed daily or as ordered by the Inspector.

Future Traffic Signal

If, at any time after the date of issuance of this permit, the Commissioner, in his sole discretion, determines that public safety or highway efficiency warrants the installation of a traffic signal at any access point that is the subject of the permit, the Permittee shall allow the placement of any component associated with such a traffic signal on the lot to which this permit pertains. If any such components are placed on the subject lot, the Permittee shall maintain its roadway pavement and property in a manner conducive with the satisfactory operation of the components and the signal.

Further, prior to the installation of any such signal, the Permittee shall enter into an agreement with the Department incorporating other conditions pertaining to the cost, installation, and maintenance.

Maintenance Guarantee

The Permittee shall provide a bond or certified check to New Jersey Department of Transportation in the amount of \$.00 to guarantee or to insure proper maintenance or restoration of the area disturbed by the Permittee for a period of one year after the Department's acceptance of the construction. If it becomes necessary for Department forces or contractors to make such repairs, for any reason, the cost of such work shall be borne by the Permittee.

Restoration Guarantee

A certified check, money order, or bond, in the amount of \$.00, shall be secured in the name of the New Jersey Department of Transportation to guarantee that all work (including restoration) will be in accordance with Department specifications. The Restoration Guarantee will be released upon the Department's acceptance of the construction.

Utility Poles

All utility poles shall be relocated behind the proposed curblines prior to the construction of new curbs.

Traffic Stripe Removal

All traffic stripes to be removed or changed are to be removed by the grinding method only. Blacking out with paint is unacceptable.

Raised Pavement Marker

If traffic is diverted from normal travel lanes during the hours of darkness, raised pavement markers within the limits of the diversion shall be deactivated.

Additional Traffic Safety Conditions

The Permittee shall maintain the uninterrupted flow of traffic at all times and no operation which will interfere with traffic or restrict the available pavement width shall be performed. On roadway widths of 40 feet or greater, two lanes of traffic will be maintained at a minimum of 10 feet each.

On roadway widths of less than 40 feet, when construction work necessitates the closing of one lane of traffic, thereby causing vehicles travelling in both directions to alternately use one lane, the Permittee shall insure that said vehicles will be delayed for a period not to exceed five minutes.

The Permittee shall be responsible for maintaining approved construction warning signs in each direction of travel. All signs and other protective devices provided by the Permittee, unless otherwise directed by the permit inspector, shall comply with the requirements of the "Manual on Uniform Traffic Control Devices for Streets and Highways", published by U.S.D.O.T, Federal Highway Administration. Competent uniformed traffic directors shall be employed at every location where the Permittee's equipment is working immediately adjacent to, where entering, leaving or crossing active traffic lanes. The traffic directors shall be employed continuously for the full time such conditions exist. Should it become necessary to leave a project unfinished, it shall be protected during the hours of darkness by flashing warning lights to be maintained by the Permittee at

each location where it is necessary to warn oncoming traffic of any existing danger area. Lights shall also be used to define the edge of usable pavement throughout the construction area.

In addition, standard barricades or drums shall be utilized as required. When battery operated flashing warning lights are used, they shall conform to Department Standard Specifications. Inspection and cleaning shall be conducted daily to provide for optimum efficiency. When work is in progress during hours of darkness, special traffic protection precautions shall be in effect as deemed necessary by the permit inspector. In substance, the Permittee shall provide special signs approved by the permit inspector with a legend warning motorists that night work is in progress, and such shall be displayed in conjunction with high intensity flashing warning lights. Special signs applying only to night time work shall be covered during the daytime hours.

If future traffic volumes could warrant installing a traffic signal at an access point covered by this permit and signalized spacing requirements cannot be met, the Department may, at such time as future traffic volumes are reached, close the left-turn access in accordance with N.J.A.C. 16:47-4.33(b).

If an undivided highway becomes divided, the Department may at such time close the left-turn in accordance with N.J.A.C. 16:47-4.33(b).

ONE CALL REQUIREMENT

This permit is not valid until the confirmation number obtained from the one call system is supplied to the Regional Permits Office in accordance with P.L. 1994, Chapter 118, Item #11 of the Underground Facility Protection Act.

1. It appears that a NJDEP Flood Hazard Area Individual permit is required for this project. Please submit the proper application for this and any other appropriate permits for this project.
2. The proposed project plans show there is no drainage connection to the NJDOT drainage system therefore our unit in Trenton has no further questions/comments.

Route 57

Block 26 Lot 2

Franklin Township, Warren County, State of New Jersey

Permit fee has been paid in the amount of \$85.00, check #2520

Application ~~and plans~~ received: May 13, 2011, WITH REVISED PLANS REC'D MAR. 1, 2012 - SS

State of New Jersey
Department of Transportation
200 Stierli Court
2nd Floor
Mount Arlington, NJ 07856

November 4, 2011

Robert A. Santini
3 Brown's Lane
Phillipsburg, NJ 08865

Re: Application #: A-57-N-0012-2011

Route: 57
Municipality: Franklin
County: Warren
Block: 26 Lot: 2

RECEIVED
JAN 9 / 2012
Regional Operations North
Permits Unit

Dear Robert A. Santini:

The Department has reviewed and intends to approve your access application. Enclosed are two original counterparts of the access permit which the Department will issue. We will execute the access permit once you complete the following steps:

1. If you are in agreement with the permit to be issued, please sign and date both copies where indicated. Please have a notary or an attorney complete the upper portion of the attached certification form.
2. Enclose the permit fee of \$0.00 either by Money Order or check, payable to the NJ Department of Transportation.
3. Enclose a restoration guarantee of \$0.00, either by certified check or bond in the name of the New Jersey Department of Transportation. A sample text for a bond is attached.
4. Enclose a maintenance guarantee of \$0.00, either by certified check or bond in the name of the New Jersey Department of Transportation. A sample text for a bond is attached.

CASH WILL NOT BE ACCEPTED FOR ANY OF THE ABOVE.

Within 180 days, please return the signed permits, permit fee and guarantees to:

NJ Department of Transportation
200 Stierli Court
2nd Floor
Mount Arlington, NJ 07856

Telephone: 973-770-5140

We will return one fully executed permit to you once we receive the properly completed documents and the fee.

If you have any questions, please call or write the above office.

Sincerely,

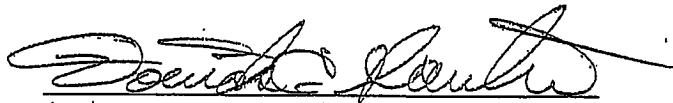
John Gahwyler
Reg. Maint. Engineer
North Permits

Attachments

Individual Acknowledgment

STATE OF NEW JERSEY)
COUNTY OF WARREN)

BE IT REMEMBERED that on this 11TH day of NOV,
Two Thousand and ELEVEN, before me, the subscriber, a Notary Public of the
State of NEW JERSEY, personally appeared ROBERT A. SANTINI, who I am
satisfied is the person who executed the within permit, and to whom I first made
known the contents thereof and thereupon HE acknowledged that
HE signed, sealed and delivered the same as HIS voluntary act and
deed, for the uses and purposes therein expressed.


(Print name and title below signature)
DOMINICK C. SANTINI
ATTORNEY AT LAW OF N.J.

NJDOT Acknowledgment

STATE OF NEW JERSEY)
COUNTY OF)

BE IT REMEMBERED that on this _____ day of _____,
Two Thousand and _____, before me, the subscriber, a Notary Public of the
State of New Jersey, personally appeared _____, Department of
Transportation, acting for and on behalf of the State of New Jersey, who I am
satisfied is the person who executed the within permit, and to whom I first made
known the contents thereof and thereupon _____ acknowledged that
_____ signed, sealed and delivered the same as _____ voluntary act and
deed and as the voluntary act and deed of the State of New Jersey, for the uses and
purposes therein expressed.

(Print name and title below signature)

This Permit is not subject to the provisions of N.J.S.A. 46:15-5 et seq.

9/25/97

EXHIBIT E



WARREN COUNTY SOIL CONSERVATION DISTRICT

224 W. Stlger Street, Hackettstown, NJ 07840
Phone: (908) 852-2579 Fax: (908) 852-2284 Web Site: warrencountyscd.org

October 12, 2011

Robert, Jane, & Santino Santini
3 Browns Lane
Phillipsburg, NJ 08865

Pursuant to the New Jersey Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975 as amended, the Warren County Soil Conservation District has reviewed this project application and:

- Approves the Soil Erosion Control Plan
- Approves the Soil Erosion Control Plan with Conditions (see attached)
- Rules the Plan incomplete (see attached)
- Denies the application without prejudice (see attached)

Name of Project: 2305 Route 57 Solar Farm

Project #: 11026

Township: Franklin

Approval Date: October 12, 2011

Block (s): 26 Lot (s): 2

Expiration Date: April 2015

Plan Date: 5/12/11

The District shall be represented at the project pre-construction meeting with the township engineer, excavating contractors, utility representatives, and applicant. If the township engineer does not schedule a pre-construction meeting, it is the responsibility of the owner/applicant to schedule the meeting prior to any land disturbance.

This plan approval is limited to the erosion and sediment controls as specified in this application and accompanying documents. It is not authorization to engage in a proposed land use or other activity that may be governed or regulated by other Township, County, State or Federal government agencies.

Formal written notification at least 14 days prior to commencing ANY SOIL DISTURBANCE on this project is required.

A handwritten signature in cursive script, appearing to read "Wayne R. Jarvis".

Wayne R. Jarvis
Chairman



Warren County Soil Conservation District

224 W. Stiger St., Hackettstown, NJ 07840
Phone: 908-852-2579 Fax: 908-852-2284
Email: wcsd@verizon.net Web Site: warrencountyscd.org

Dear Applicant:

Your proposed project requires a Stormwater Construction General Permit (5G3) pursuant to N.J.S.A. 4:24-39 et seq. Effective October 1, 2009, this permit should no longer be filed through the District office. As the applicant, you are now required to submit applications and payment electronically utilizing the NJDEP Stormwater Construction Activity E-Permitting System or via paper application to NJDEP Bureau of Permits Management. Paper forms can be downloaded at <http://www.nj.gov/dep/dwq/5g3.htm>.

In order to access the E-permitting system you must first become a registered user of NJDEP Online at <http://www.nj.gov/dep/online>. Once registered, the following information is required to complete the E-Permit, Stormwater Construction General Permit Request for Authorization (RFA).

1. The Application/ Project name.
2. The location of the site – Physical Address, NJ State Plane Coordinates, Block(s) and Lot(s).
3. Highlands Area Approval/ Exemption (*if site is located within the Highlands*)
4. Contact information (*address, email, and phone*) for – Fees/ Billing contact, Owner, and Permittee.
5. Chapter 251 Application Number and SCD Certification Code and (*sheet included**)

*These codes are unique to your stormwater RFA and Chapter 251 approval. Enter these codes in the E-permitting system, on the screen titled "SCD Certified Plan". The codes are case sensitive and each code may only be used once.

6. Area of land disturbance
7. The date activity will commence.
8. Identification number of all existing NJPDES permits for the facility.
9. A project description and description of current land use.
10. Certification PIN (*this PIN is generated and emailed to you when registering a NJDEP online account*).
11. A method of payment – checking/ savings account, voucher payment, credit card

If you have any questions regarding this information or any other aspect of the E-Permitting system please contact Daniel Kuti, NJDEP Bureau of Nonpoint Pollution Control at (609) 633-7021 or via email at PortalComments@dep.state.nj.us

Stormwater Construction Activity (5G3) E-permit Certification Codes

Below you will find your required certification codes. These codes are unique to your stormwater RFA and Chapter 251 approval. You shall enter these codes in the E-permitting system, on screen titled "SCD Certified Plan". The codes are case sensitive and each code may only be used once. If you encounter any difficulty entering the codes please contact the issuing Soil Conservation district office for support.

SCD Certification Code

1EK6ZVOLT5

251 Identification Code

110261

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF IMPLEMENTATION)
 OF L.2012, C. 24, THE SOLAR ACT OF)
 2012; AND) Docket No. EO12090832V

IN THE MATTER OF THE)
 IMPLEMENTATION OF L.2012, C.24)
N.J.S.A. 48:3-87 (Q)(R)(S))
 PROCEEDINGS TO ESTABLISH THE)
 PROCESSES FOR DESIGNATING)
 CERTAIN GRID SUPPLY PROJECTS AS) Docket No. EO12090880V
 CONNECTED TO THE DISTRIBUTION)
 SYSTEM – REQUEST FOR APPROVAL)
 OF GRID SUPPLY SOLAR ELECTRIC)
 POWER GENERATION PURSUANT TO)

ORDER FOR RECONSIDERATION

THIS MATTER having come before the Board of Public Utilities upon application of Howard E. Drucks, Esquire of Cooper Levenson April Niedelman & Wagenheim, counsel for EffiSolar Development LLC (“EffiSolar), for an Order for Reconsideration, and the Board of Public Utilities having reviewed the moving papers and for good cause shown;

IT IS, on this _____ day of _____, 2013,

ORDERED AND ADJUDGED THAT: EffiSolar’s Motion for Reconsideration is hereby granted, and

IT IS FURTHERED AND ADJUDGED THAT: EffiSolar’s application, Franklin Solar W3-077 (EO12121108V) (“W3-077”) shall hereby be classified as deferred.



CLAC 2135647.1