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July 24, 2020

Via E-Mail and US Mail

Clerk of the Third Department
Appellate Division, Third Department
P.O. Box 7288, Capitol Station
Albany, New York 12224-0288

Re: Susan L Biggs and Lynne A. Bruning v. Eden Renewables, LLC, et al
Schenectady County Supreme Court Index No. 2019-2217
Third Department Docket No.: 531440
NOTICE OF CALENDAR PREFERENCE

Dear Sir or Madam:

This firm represents Respondents-Respondents Eden Renewables, LLC and Richard B. Murray (collectively, the “Eden Respondents”). The Eden Respondents submit this letter to notify the Court that Town Law 274-a[13] and Town Law 274-b[11] each provide that this matter “shall have preference over all civil actions and proceedings.” Therefore, the Eden Respondents respectfully request that the Court grant this matter a calendar preference pursuant to 22 NYCRR 1250.15(a)(1). Counsel for the Respondent-Respondent Town of Duanesburg Planning Board joins in this request.

In addition to the statutory preference provided by the Town Law, this Court should also grant a preference in this matter for “good cause” because the pendency of this action delays construction of the solar energy facilities (the “Project”). This delay causes:

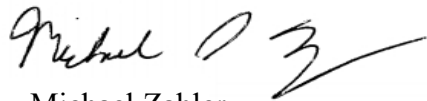
1. damages to the Eden Respondents in the form of increased interest expenses due to extended borrowing time frames, loss of revenue, and losses relating to deposits for solar modules and upgrades to National Grid’s infrastructure;
2. damages to the Town of Duanesburg (the “Town”) because the Eden Respondents’ payments to the Town under a Payment In-Lieu of Taxes agreement are contingent upon, and not triggered until, completion of the Project;
3. damages to the Duanesburg Central School District (the “School District”) because the Eden Respondent’s establishment of the Eden Renewables Ecology, Clean Energy, and Sustainability Scholarship and Education Support Fund (the

“Scholarship Fund”) is contingent upon, and not triggered until, completion of the Project; and

4. damages to the region because constructing the Project will create between 60 and 120 jobs, and operating the solar energy facilities will create an additional two to four jobs.

Thank you for your attention to this matter.

Respectfully submitted,



Michael Zahler

MDZ

cc: Douglas H. Zamelis, Esq.
John J. Henry, Esq.
Alan J. Goldberg, Esq.