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March 20, 2026

VIA EMAIL & U.S. MAIL

Anthony V. Clarke
483 Seaward Avenue
Bradford, PA 16701
avclarke@mckeancountypa.org
theclarkefirm@yahoo.com

**Re: McKean County Subdivision and Land Development Ordinance
Proposed Solar Energy Ordinance**

Dear Mr. Clarke,

We represent RWE Solar Development, LLC (“RWE”). As you are aware, RWE is in the process of permitting a solar energy development located in Sergeant, Hamlin and Norwich Townships (“Stargazer Solar Project”). Sergeant and Hamlin Townships have already approved RWE’s applications for the respective portions of the Stargazer Solar Project located within each of those townships. RWE intends to address the Norwich Township portion of the project in the near future.

With respect to McKean County, RWE submitted a preliminary land development application to the County for approval of the Stargazer Solar Project on January 30, 2026. After the application was filed, RWE was made aware that the County previously took the position that solar development was not regulated by the McKean County Subdivision and Land Development Ordinance (“SALDO”). As such, RWE requested a letter memorializing this similar to the one that was provided to Walden Renewables for the Energix solar project located in Sergeant Township. As provided for in the attached email correspondence, the County’s Planning Director, Mr. Rick Fry, acknowledged the request nearly a month ago and advised that he needed to coordinate internally with you to ensure any correspondence accurately reflects the County’s authority and posture. To date, there has been no response from the County.

Per our discussion last week, the purpose of this letter is to request a determination as to what McKean County’s position is with respect to the applicability of the SALDO to the Stargazer Solar Project, especially in light of the proposed 36 page “Solar Energy Ordinance” that purports to amend the SALDO (“Solar Amendment”).

March 20, 2026

Page - 2 -

The most cursory of reviews is sufficient to make the determination that the proposed Solar Amendment is a zoning ordinance and not a valid SALDO amendment. A subdivision and land development ordinance only allows for the regulation of “subdivision” and “land development” as those terms are defined by the Pennsylvania Municipalities Planning Code (“MPC”). *See* 53 P.S. § 10107. The Stargazer Solar Project is not a “land development.” A SALDO cannot regulate the use of land. The lawful local regulation of specific uses can only be done through a zoning ordinance. Here, even if the County had an existing zoning ordinance, the Solar Amendment would still be legally tenuous at best. Because the County does not have a zoning ordinance it is not necessary to address the Solar Amendment on a provision-by-provision basis. If adopted as drafted, the Solar Amendment would be subject to challenge and declared invalid.

It would be RWE’s preference not to litigate this matter. Because the pending ordinance doctrine does not apply to land development and RWE filed its application prior to the publication of the Solar Amendment, it would be in your client’s best interest to issue a written letter consistent with its earlier precedent. It is not RWE’s concern if the County thereafter adopts the Solar Amendment and attempts to apply it to a differently situated solar developer who had not made application to the County prior to the consideration of the Solar Amendment.

Conversely and as a professional courtesy, please let me know if it is the County’s position that the Stargazer Project would be subject to regulation under the proposed Solar Amendment so we can plan accordingly. If the County adopts and attempts to impose the Solar Amendment to the Stargazer Project, RWE has no choice but to seek declaratory and injunctive relief.¹

Your consideration of our request is appreciated.

Very truly yours,



Shawn N. Gallagher

SNG/

Encls.

cc: RWE Solar Development, LLC

¹ RWE will also evaluate whether there are causes of action against the individual Commissioners, staff and the County’s consultants in their individual and official capacities. If the County adopts and attempts to impose the Solar Amendment to the Stargazer Project, given the past present and sequencing of events, please be advised that this may serve as a basis for a federal Section 1983 action for violation of RWE’s constitutional rights, for which RWE’s attorney’s fees may be recoverable. *See* 42 U.S.C. §§ 1983; 1988. To this end, please advise the County Commissioners, Planning Commission members, and Planning Director to preserve all documents, emails and texts concerning the Stargazer Solar Project and the Solar Amendment.

RE: Stargazer Solar - Application Questions

From Good, Evan <Evan.Good@rwe.com>
Date Thu 3/12/2026 3:15 PM
To Fry, Richard <RFry@mckeancountypa.gov>

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Hi Rick – good afternoon, I left you a voicemail a little earlier. Have a minute to catch up today? Wanted to check in on the below.

Thanks,

Evan Good
Manager, Development – East
RWE Americas
Mobile: (267) 343-6920

From: Good, Evan
Sent: Friday, February 27, 2026 6:04 PM
To: Fry, Richard <RFry@mckeancountypa.gov>; Katelhon, Tom <Tom.Katelhon@kimley-horn.com>
Subject: RE: Stargazer Solar - Application Questions

Hi Rick,

I wanted to follow up with you on this. I am not sure if you are aware of this, but we have already started the permitting process with the townships. We have applications pending in Sergeant and Hamlin. We will be addressing the Norwich portion of the project in the near future. We are also working on our NPDES Application submittal which is a significant undertaking.

I am a little concerned with the phrasing of your email. I don't believe you are suggesting that a yet to be adopted ordinance would apply to us. We discussed this with our counsel and he advised that we would be grandfathered in. We want to confirm that we are all on the same page. That is why we would like a letter similar to the Energix letter.

You referenced that the County Solicitor was looking into this. If this is still an open discussion, does it make sense to put our attorney in touch with him? Please let me know. I am available any time if you would like to discuss. Thanks and have a nice weekend.

Thanks,
Evan

Evan Good
Manager, Utility Scale Development - East

RWE Clean Energy, LLC

Mobile: +1 (267) 343-6920

Email: evan.good@rwe.com

From: Fry, Richard <RFry@mckeancountypa.gov>

Sent: Tuesday, February 24, 2026 3:04 PM

To: Katelhon, Tom <Tom.Katelhon@kimley-horn.com>

Cc: Good, Evan <Evan.Good@rwe.com>

Subject: [EXT] Re: Stargazer Solar - Application Questions

[EXTERNAL SENDER **]:**

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[EXTERNER ABSENDER **]:**

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Good Afternoon Tom,

Thank you for following up and for sharing the prior correspondence you referenced.

At this time, McKean County does not have an adopted Solar Energy Ordinance. Because of that, the County's SALDO land development review/approval process is not currently the applicable pathway for large-scale solar projects in the way it would be if/when a solar ordinance is adopted.

With that said, I understand your request for a letter similar to the one you attached. Before I can respond to that request, I need to coordinate internally with the County Solicitor and County Commissioners to ensure any correspondence accurately reflects the County's current authority and posture.

Regarding the plan sets your team delivered: I acknowledge receipt of the materials. Since there is no adopted solar ordinance at this time, I am treating the submittal as informational/voluntary and will not place the project on a Planning Commission agenda until we complete that internal coordination and confirm the appropriate process.

Given that the project spans multiple municipalities, I also encourage continued coordination with the affected municipalities on any local requirements that may apply.

I will follow up once I've had the opportunity to align with the Solicitor and Commissioners.

Respectfully,

Rick Fry

Director

McKean County Planning Commission

17137 Route 6

Smethport, PA 16749

E: rfry@mckeancountypa.gov

P: 814-887-2754

From: Katelhon, Tom <Tom.Katelhon@kimley-horn.com>
Sent: Monday, February 23, 2026 4:26 PM
To: Fry, Richard <RFry@mckeancountypa.gov>
Cc: Good, Evan <evan.good@rwe.com>
Subject: RE: Stargazer Solar - Application Questions

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Hi Rick,

I hope you had a great weekend! I wanted to follow up with you on our application. We just had our weekly call on the project and the Energix project was brought up (<https://www.bradfordera.com/2025/09/19/mckean-county-solar-project-encompasses-681-acres/>). We were recently made aware that the County does not regulate solar development under the SALDO per the below letter. If that is the case, would it be possible to get a similar letter for this project?

Jeremy S. Morey, Director
jsmorey@mckeancountypa.org
Phone: 814-887-2754

Shenandoah, PA 16749
Fax-814-887-3234

Laura Lord, Asst. Planner
lmlord@mckeancountypa.org
Phone: 814-887-2348

October 7, 2020

Mr. Jack Kenworthy
Walden Renewables
Portsmouth, NH 03801

Dear Jack,

It was a pleasure to meet with you to discuss the planned solar array project in Sergeant Township, McKean County. During our talk you cleared up our concerns regarding the preservation of natural resources in the County and how the actions that your company is taking offsets those environmental impacts. I am providing this letter to you to reiterate that this type of development is NOT regulated by the McKean County Subdivision and Land Development Ordinance (SLDO) and that you do not need to submit any development plans to our office for approval. We still encourage you to reach out to the Sergeant Township Supervisors to inform them of the planned activities and to secure any permits that may be needed from them.

If you should need anything further, please do not hesitate to reach out to me and I will be glad to help you as much as I can.

Respectfully,



Jeremy S. Morey, Director
McKean County Planning

Thank you!

Tom Katelhon, P.E. (PA)
Kimley-Horn
Direct: 267-691-2326

From: Fry, Richard <RFry@mckeancountypa.gov>
Sent: Friday, February 13, 2026 4:25 PM
To: Katelhon, Tom <Tom.Katelhon@kimley-horn.com>
Cc: Good, Evan <evan.good@rwe.com>
Subject: Re: Stargazer Solar - Application Questions

Good Afternoon,

I had forwarded your questions on to our Planning Commission Chair. I am still awaiting a reply from him.

Thank You,

Rick Fry
Director

McKean County Planning Commission

17137 Route 6

Smethport, PA 16749

E: rfry@mckeancountypa.gov

P: 814-887-2754

From: Katelhon, Tom <Tom.Katelhon@kimley-horn.com>
Sent: Friday, February 13, 2026 10:22 AM
To: Fry, Richard <RFry@mckeancountypa.gov>
Cc: Good, Evan <evan.good@rwe.com>
Subject: RE: Stargazer Solar - Application Questions

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Good morning Rick,

Happy Friday! Wanted to follow up to see if the County had answers to the questions below. Let me know if you want to discuss these questions further.

Thank you,

Tom Katelhon, P.E. (PA)
Kimley-Horn
Direct: 267-691-2326

From: Katelhon, Tom
Sent: Friday, February 6, 2026 2:42 PM
To: 'rfry@mckeancountypa.gov' <rfry@mckeancountypa.gov>

Cc: Good, Evan <evan.good@rwe.com>

Subject: Stargazer Solar - Application Questions

Good afternoon Rick,

Thanks for the conversation earlier today. As we discussed, it is commonplace to make a third-party permit requirement a condition of approval. To this end, can you please ask the following questions:

- Would the county be amenable to accepting the Preliminary Land Development application as is with the condition of obtaining E&S permit at time of Final Land Development Approval?
- Would the county accept a waiver request to defer obtaining E&S permit until Final Land Development?

Thanks again and have a great weekend!

Best,

Tom Katelhon, P.E. (PA)

Kimley-Horn | Two Liberty Place, 50 South 16th Street, Suite 3300, Philadelphia, PA 19102

Direct: 267-691-2326

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