



COUNCIL ON ENVIRONMENTAL QUALITY

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October 28, 2019 - Corrected

Melanie Bachman, Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

RE: PETITION NO. 1385 – Cobb Road, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a solar photovoltaic electric generating facility at 20-1 Short Hills Road, Old Lyme, Connecticut.

Dear Ms. Bachman:

The Council on Environmental Quality (“the Council”) has reviewed the Petition for Declaratory Ruling noted above and offers the following comments for consideration by the Connecticut Siting Council.

1. State Listed Species

It is clear that APT conducted a biological survey of the property in question and consulted DEEP’s Natural Diversity Database (NDDDB). The Petition correctly notes that the NDDDB is a record only of **observed** occurrences of listed species. The Council wishes to make it clear, as it has with prior petitions that the NDDDB is not a substitute for an on-site survey. In this case the petitioner leaves unanswered the question of whether the absence of listed species indicates that they were not present or that they were not looked for. An appropriate guideline for petitioners to use in summarizing the conclusions of their surveys is to document at least some of the “listed” species which were looked for in the habitats visited.

2. Core Forests and Shrublands and their Dependent Species

The Petitioner confirms that the proposed project will eliminate approximately eighteen acres of core forests and will leave the remaining 120 acres of the site in a mostly natural state. It also states that the site had been slated for residential development and perc tests had already been performed.

A primary motivation behind Connecticut General Statutes (CGS) 16-50k(a)(iii) was the preservation of those core forest habitats and the species dependent on them. The project in question proposes a capacity of 1.992 MW or only .008 MW (eight kilowatts) less than two megawatt threshold, above which a review by Department of Energy and Environmental Protection (DEEP) of the forest impact would be required. The intent of [CGS 16-50k\(a\)\(iii\)](#) was to protect core forests through consultation with DEEP.

The Council on Environmental Quality’s Annual Report, *Environmental Quality in Connecticut* report has [charted](#) the decline in Connecticut’s populations of mature-forest,

young-forest and shrubland bird populations since 2004. Earlier this month, the Journal Science [published documentation](#) of a 29 percent decline in North American bird populations in the last 50 years. The proposed location is within one of Connecticut's [Important Bird Areas](#) (IBA) and of state-wide conservation importance. As confirmed in the Petition, this site "represents a significant core forest block with respect to its importance for forest-interior birds, particularly when considering that a second large contiguous forest block lies immediately to the south of the Eversource ROW". In addition, the proposed site includes two priority habitats that support declining species that are of Greatest Conservation Need ("GCN") in the state, which was confirmed by avian surveys.

Consequently, the intention of the Petitioner to minimize the impacts to wildlife habitat post-construction, with the creation of a wildflower meadow, totaling ± 1.23 acres, by planting a habitat-specific blend of grasses and wildflowers up to the Project Area's limits of disturbance and to provide nesting habitat, as well as stopover habitat for migratory birds and pollinators is commendable. Given the dire state of avian populations, the habitat preservation techniques described in the petition should be expanded to the maximum extent practicable on the site, and at all solar energy sitings. Because this specific proposal comes within only eight watts of the threshold at which the Commissioner of DEEP is required to make a determination "that such project will not materially affect the status of such land as core forest", every effort should be made to preserve as much forest and associated habitats as is possible.

3. Habitat Considerations

The proposed facility and access road would impact the critical terrestrial habitat for species that use the identified vernal pool located east of the proposed site. As confirmed in the Petition, "intact forest represents the highest value habitat" within both the vernal pool envelope and the critical terrestrial habitat "to support breeding opportunities for the various obligate vernal pool indicator species that rely on forested habitat (e.g., wood frog and spotted salamander)." The Council recommends that the Siting Council request design modification that could eliminate or reduce negative impacts on that area of the site.

4. Visibility Concerns

The petition states the screening will be "unobtrusive visually to the surrounding area and residences". The petition also states "the surrounding area of the Site is in the process of being developed for residential sub-divisions." An appropriate question is whether the screening for the site will be adequate from the locations of the yet-to-be developed residences.

Thank you for your consideration of these comments. Please do not hesitate to contact the Council if you have any questions.

Sincerely,



Peter Hearn,
Executive Director