



## STATE OF CONNECTICUT

# COUNCIL ON ENVIRONMENTAL QUALITY

March 23, 2022

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PETITION NO. 1492 – CT NSB Project Co LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 1.99-megawatt AC solar photovoltaic electric generating facility located at 486 Fitch Hill Road, Montville (Uncasville), Connecticut, and associated electrical interconnection.

Dear Ms. Bachman:

The Council on Environmental Quality (“Council”) supports the development of clean, renewable energy technologies on appropriate sites in Connecticut. The Council offers the following comments regarding Petition 1492.

### 1. **Wildlife**

The Petitioner states that “because no state-listed species or communities are documented on the Site, consultation with NDDDB is not required”. While consultation with Natural Diversity Database (NDDDB) is not required, the Council wishes to make it clear, as it has with prior petitions, that the NDDDB mapping is a pre-screening tool and is not a substitute for an on-site survey. Indeed, the eastern spadefoot (*Scaphiopus holbrookii*), which is one of the rarest amphibians in the northeastern United States, has been found on similar sites with sandy habitats and patches of mixed herbaceous/shrub cover in Eastern Connecticut. Consequently, the Council recommends that the Petitioner survey the proposed site to assess the presence of wildlife and endangered, threatened and special concern species or suitable habitat that might be present. If found, the Council recommends that the Petitioner consult with the NDDDB to develop and implement plans to eliminate or mitigate any potential adverse impacts.

A review of the US Fish and Wildlife Service (USFWS), Information for Planning and Conservation (IPAC) tool indicates that there is the possibility that seven bird species, which are either on the USFWS Birds of Conservation Concern (BCC) list or warrant special attention, may be present at or near the proposed project location. The Council recommends that the Petitioner conduct a site-specific survey for suitable habitat for each of the seven bird species, and if present, propose conservation/mitigation measures to minimize the impact on those species, including but not limited to a restriction of construction activities within the period in which the probability of their presence is greatest.

The Council suggests that an approximately six-inch gap be maintained at the bottom of the proposed security fence that would surround the proposed project to allow for migration of small wildlife, if consistent with safety requirements.

## **2. Prime Farmland Soils**

The Petitioner states that the proposed site currently has 58 acres of prime farmland soils and that the proposed project would occupy 13.5 acres of prime farmland soils, or approximately 90 percent of the total area that would be cleared, excavated and regraded to facilitate the proposed project. The Council does not support the extensive disturbance of prime farmland soils. The Council recommends that the Petitioner evaluate the feasibility of redesigning the proposed project to eliminate or minimize the proposed impact on prime farmland soils. If redesigning the proposed project is not feasible, the Council recommends that best practices be employed during construction that might allow for a future restoration of prime farmland soils to more productive agricultural use. These practices include minimizing grading, trenching, and compaction of prime farmland soils.

## **3. Groundwater**

The Petitioner states that the groundwater underlying the proposed site is designated as “GA” and is not within an aquifer protection area. The Council supports the Petitioners’ proposed measures to eliminate or minimize the potential spill of petroleum products and other chemicals as identified on Sheet GN-2 and recommends that all the measures identified in the Petroleum Materials Storage and Spill Prevention notes be a condition of approval.

## **4. Core Forest**

The Petitioner states that “project development would result in the reduction of approximately 18 acres of core forest by the removal of 14.26 acres of trees within the Project Area”. The Council does not support the loss of any core forest. Furthermore, the core forest “pockets” that would result from the proposed development would provide substandard or poor habitat for some species of wildlife. Furthermore, invasive species of plants and animals often colonize areas in the wake of activities that result in fragmented forests.

## **5. Wetlands and Vernal Pool**

The Petitioner states that “the Facility’s proposed overhead utility route will result in secondary impacts to Wetland 1 associated with tree clearing for electrical line clearance requirements”. The Council notes that the “old field” area immediately west of the proposed overhead utility line route is cleared of trees and is not identified as wetlands. In addition, the area immediately north and east of the existing buildings is cleared and might be able to accommodate either an overhead or underground utility route. Installation of the utility route in either location could eliminate the wetland impacts and associated tree clearing in that area. The Council also notes that the proposed underground utility route from the proposed solar panels to the overhead utility route would be within 100 feet of wetlands 1 and wetlands 2, and that the Petitioner neglected to include that information in Exhibit G, Table 1: Summary of Project Wetlands.

The Petitioner states that when assessing potential impacts on a vernal pool’s critical terrestrial habitat (CTH), “the goal is to maintain a percentage of 25% or less development (including site clearing, grading and construction).” Further, the Petitioner states that development within the CTH would “increase from 6% under existing conditions to 22% once the Facility is constructed”. Exhibit G, Figure 5 depicts the developed area as 22 percent; however, it appears that there will be site clearing, grading and construction activities outside of the “developed area”. The Council recommends that the Petitioner assess and confirm that total area of the CTH that will be impacted by development of the proposed project.

The Council also recommends that because the vernal pool is characterized as Tier I types, the following best development practices be employed:

- maintain an undeveloped forested habitat around the pool, including both canopy and understory;
- avoid barriers to amphibian dispersal (emigration, immigration);

- protect and maintain pool hydrology and water quality by maintaining a 100-foot “no- disturbance” buffer; and
- maintain a pesticide-free environment.

The Council supports the Petitioner’s efforts to reduce impacts to wetlands and the vernal pool during the construction through the proposed Wetland and Vernal Pool Protection Program identified in Appendix G, Environmental Assessment, Sheet GN-2.

The Council recommends that the Petitioner evaluate the feasibility of redesigning the proposed project to eliminate or minimize the proposed impact on core forests, prime farmland soils, wetlands, and the CTH on the proposed site. However, if the proposed project cannot be redesigned to eliminate impacts to wetlands and the vernal pool, The Council recommends that the proposed Wetland and Vernal Pool Protection Program be a condition of approval.

The Council notes that the comments above address only certain elements of the materials provided by the Petitioner at the time of the filing. Additional information can become evident through comments offered by other parties and during the Siting Council’s administrative hearing process. The absence of comment(s) by this Council about any Petition or Application, or any aspects thereof, may not be interpreted as an endorsement of a proposed project, or its components or that this Council might not have comments or concerns on more specific issues raised during the hearing process.

Thank you for your consideration of the Council’s comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter Hearn", is enclosed in a rectangular box.

Peter Hearn  
Executive Director