

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

GRE GACRUX LLC petition for a declaratory ruling  
for the proposed construction, maintenance and  
operation of a 16.78-megawatt AC solar photovoltaic  
electric generating facility in Waterford, Connecticut.  
Reopening of this petition based on changed conditions.

Petition No. 1347A

October 29, 2020

SAVE THE RIVER-SAVE THE HILLS, INC.  
COMMENTS ON PROPOSED FINDINGS OF FACT

Save the River-Save the Hills, Inc. ("STR-STH") submits the following comments on the Council's proposed findings of fact, pursuant to the Council's announced deadlines. Proposed changes to listed paragraphs were made using the "tracked changes" function for ease of the Council's review.

**Paragraph 115:** Proposed change to clarify the different interpretations/understandings of "growing season."

GRE, upon consultation with DEEP Stormwater Program staff, intends to clear and hydroseed the site to allow for vegetative growth to be established for one growing season to minimize construction-related impacts to soil. GRE did not intend that the one growing season schedule was to mean one calendar year between site seeding and site construction; rather, its understanding of the term growing season is either the spring season or the fall season. (GRE 1b, p. 14; GRE 2, response 20; Tr. 1, p. 98; Tr. 3, pp. 58-59)

**Paragraph 121:** Proposed change to be consistent with the language of the 2002 Guidelines pp. 3-7 & 3-8.

The *2002 Guidelines for Soil Erosion and Sediment Control (2002 Guidelines)* recommend phasing and sequencing to minimize areas being developed at any one time to reduce stormwater runoff and potential erosion as well as to reduce the duration of exposure. The *2002 Guidelines* provide that when the disturbed area exceeds 5 acres and drains to a common point of discharge the construction of a sedimentation basin is indicated~~recommend a project be phased in five acre increments only if no temporary sediment traps are specified.~~ (GRE 4, response 17; Council Administrative Notice No. 58 - *2002 Guidelines*, pp. 3-7, 3-8)

**Paragraph 158:** Proposed typographical correction.

GRE would remove the facility within 150 days of the project's end life. (GRE 1b, App. D)

**Paragraph 166:** Proposed change to correct impression given by drafting that emergency vehicle site access is addressed in NFPA Fire Code § 11.12.3 or the corresponding appendix sections, as that subject is not discussed therein; to correct the language of (a) as the code itself does not provide that low-cut grass satisfies the non-combustible base; and to correct the reference to the STRSTH administrative notice item.

The project would be designed to comply with the NFPA Fire Code Section 11.12.3 (Ground-Mounted Photovoltaic System Installations), as follows:

- a) A Vegetation Management Plan would be implemented to comply with the “non-combustible base” code provision that must be installed under and around solar arrays. ~~In accordance with the code, The town fire marshal testified that vegetation could consist of low-cut grass in and around the panels probably would satisfy the non-combustible base code provision;~~
- ~~b) Access to the site is sufficient. The Town’s emergency vehicles (i.e. brush trucks to carry water) would be able to negotiate the proposed facility access road layout; and~~
- ~~e) The site design includes clearances in excess of 10 feet between the solar array and perimeter fence.~~

(STRSTH Administrative Notice No. ~~423~~; Town 3; GRE 1b, App. A, Sheet C-3.x series; Tr. 3, pp. 13-14, 24-29)

**Paragraph 166A:** Added to account for material deleted from Paragraph 166(b).

~~Access to the site is sufficient. The Town’s emergency vehicles (i.e. brush trucks to carry water) would be able to negotiate the proposed facility access road layout. (STRSTH Administrative Notice No. 43; Town 3; GRE 1b, App. A, Sheet C-3.x series; Tr. 3, pp. 13-14, 24-29)~~

**Paragraph 167:** Proposed typographical correction.

The Town Fire Marshal would inspect the site periodically to ensure compliance with the Fire Code Section 11.12.3.1 that pertains to site access. (Town 3)

**Paragraph 191:** Query whether there is a typographical error and/or substantive error on the Council’s last sentence of this paragraph. The citation for that sentence, General Statutes § 22a-430(b) refers to public hearings on permit applications, which do not include those activities for which a General Permit has been issued by DEEP. General Statutes § 22a-430b provides that DEEP may create general permits, which it has for construction activities, but does not provide for public hearings on individual registrations for those general permits, only for hearings on notices of intent to issue the General Permit program as a whole (as DEEP has recently done with proposed changes that may include Appendix I). The statutory cite does not support the Council’s finding that “DEEP could hold a public hearing on any Stormwater Permit application,” as the “application” submitted by developers like GRE is an application for registration under the Construction General Permit. There is no mechanism for public hearings on those applications, only for public comment.

**Paragraph 208:** Proposed change to correct reference to supporting transcript testimony, as referenced STRSTH administrative notice document is not relevant to the subject matter of this paragraph. Also proposed typographical correction

One of the ~~draft-draft~~ Appendix I design requirements for solar panels to be considered pervious is the implementation of stormwater control practices on post-construction solar array slopes greater than 5 percent, but less than 10 percent, to ensure long term sheet flow conditions. These practices include, but are not limited to, level spreaders, terraces or berms. The current Project site plans do not include these practices. (GRE 1b, App. A, Sheet C-5.x series; Tr. 1, 140:17-141:14; Tr. 3, 53:13-54:3; Tr. 4, 60:23-61:16 STRSTH Administrative Notice No. 25)

**Paragraph 227:** Proposed change to clarify the required timing of inspections and GRE's willingness to conduct them more frequently.

GRE would perform inspections of the construction erosion and sedimentation controls and stormwater features at least once per week and within 24 hours after 0.5-inch or greater rain events, as follows;

- Silt fencing, compost filter sox, wood chip mulch berm;
- Straw wattles;
- Vegetated slope stabilization;
- Energy dissipaters;
- Sediment traps/basins/diversion swales;
- E-fence (installed at sediment basin outfall); and
- Construction exit gravel pad.

GRE is willing to conduct more frequent inspections in the event of significant rain events. (GRE 5, response 47; Tr. 1, 85:13-87:20)

**Paragraph 305:** Proposed corrections to make finding consistent with cited source material.

The ribbon snake can also be found up to several hundred ~~feet meters~~ away and 100 meters higher in elevation from its typical water-based habitats in early Spring and after mid-~~December~~September. Its winter hibernacula may be found in -uses rocky upland areas as well as near water where certain types of cover may exist. and in uplands for winter hibernacula. (STRSTH 6, pp. 16-17)

**Paragraph 309A:** Proposed addition to explain the value of coldwater streams:

The Connecticut Wildlife Action Plan identifies coldwater streams as habitat types of greatest conservation need (GCN). Coldwater streams are typically associated with undeveloped forest lands and undisturbed wetlands that maintain stable and suitable water temperatures to support Connecticut's most sensitive fish species, including brook trout, a GCN species. Threats to GCN fish species include loss, degradation, or fragmentation of habitats from development or change in land use, impacts to riparian habitat, insufficient buffers, and increased warming of groundwater. (Council Administrative Notice No. 68)

**Paragraph 314:** Proposed corrections to be consistent with the cited source material.

DEEP has listed the Niantic River Estuary as “impaired” for the past 15 years due to poor and deteriorating water quality. One of the biggest sources of pollution in the river is from runoff flowing directly into the river as well as from the tributaries in the supporting watershed. Runoff pollutes the river by discharging nutrients, particularly nitrogen, and by discharging silt. DEEP intends to implement an action plan to improve water quality within the watershed. (STRSTH 6, pp. 11-12)

**Paragraph 314A:** Proposed addition to explain impact of nitrogen in pollution.

The proposed project will result in increased discharge of nitrogen to surface and groundwaters. (STRSTH Administrative Notice No. 8; Tr. 1, pp. 25-27)

**Paragraph 319:** Proposed change to make consistent with concerns for Class A waterbodies expressed in the Stormwater Manual p. 8-6:

According to the *2004 Stormwater Manual*, stormwater treatment practices should be designed not only for site specific conditions, but also to protect the downstream resources that could be impacted by stormwater discharges from the site. Toxic pollutants such as metals and soluble organics, as well as other contaminants such as bacteria, are the primary concern for Class A streams and brooks as well as their tributary watercourses and wetlands. Sensitive cold water fisheries could also be adversely impacted by stormwater runoff with elevated temperatures. The rate and volume of stormwater discharges from new developments are especially critical to these systems, as they could impact the flood carrying capacity of the watercourse and increase the potential for channel erosion. (Council Administrative Notice No. 59- 2004 *Stormwater Manual*, p. 8-6)

**Paragraph 337:** Proposed change to be consistent with cited source material.

Forest fragmentation ~~could leads~~ to ~~increased-induced forest~~ edge effects, such as changes to topography, light regimes, hydrology, substrates, and the introduction and proliferation of nonnative invasive species. In addition, forest fragmentation diminishes wildlife passage corridors ~~could be diminished~~. (STRSTH 6, p. 18)

**SAVE THE RIVER-SAVE THE HILLS, INC.**

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CERTIFICATION

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