



COUNCIL ON ENVIRONMENTAL QUALITY

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

PETITION NO. 1469 – LSE Indus, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a 1.99-megawatt AC solar photovoltaic electric generating facility located at 81 East Main Street, North Canaan, Connecticut.

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 1469.

1. Wildlife

The Petitioner states that the Natural Diversity Data Base (NDDB) was consulted and a determination was made that “there are no reported populations of state or federal listed species on this property”. The Council again notes that the NDDB mapping and/or consultation only identifies state-listed species that have been “reported” to NDDB. Consequently, there might be state-listed species or suitable habitat on the proposed site that are unknown or unreported. In addition, the Information for Planning and Consultation (IPaC) tool of the U.S. Fish and Wildlife Service (USFWS) identifies the Northern Long-eared Bat and the Bog Turtle, which could be potentially affected by the proposed project at this location, as detailed in Exhibit 9 - the Environmental Assessment. The IPaC tool also identifies the Monarch Butterfly, and ten migratory birds that might be present in the vicinity of the proposed project. Consequently, the Council recommends that the Petitioner survey the proposed site to assess the presence of any state-listed species and migratory bird species, or suitable habitat that might be present. If found, the Council recommends that the Petitioner consult with the NDDB and or the USFWS to develop and implement plans to eliminate or mitigate any potential adverse impacts to those species. In addition, the Council recommends providing space at the bottom of the proposed perimeter fence to allow for the migration of small wildlife, including vernal pool obligate species, if consistent with safety requirements.

2. Wetlands

The Petitioner states that “during construction, the limits of disturbance would coincide with the outside edge of the existing cleared access, approximately 20 feet from the wetland” and proposes to have portions of the facility within 44 feet of the wetland boundary along the northeast edge of the site. As detailed in a recent report¹, “larger buffers will be more effective over the long run because buffers can become saturated with sediments and

¹ Environmental Protection Agency, Planner's Guide to Wetland Buffers for Local Governments, Environmental Law Institute, March 2008; https://www.epa.gov/sites/production/files/2014-03/documents/final_40.pdf

nutrients, gradually reducing their effectiveness, and because it is much harder to maintain the long-term integrity of small buffers.” In addition, “wetland buffers maintain or serve directly as habitat for aquatic and wetland-dependent species that rely on complementary upland habitat for critical stages of their life-history.” Consequently, the Council recommends that the Petitioner utilize a minimum 100-foot buffer around all identified wetlands.

The Petitioner also identified one vernal pool adjacent to the proposed site. The proposed project’s construction and operation would increase the percent of developed area in the critical terrestrial habitat (CTH) from 16 percent to 24.8 percent, thereby approaching the 25 percent development threshold thought by experts to have a probable negative impact on vernal pool obligate species. Because it has been characterized as a Tier I type, the Council recommends 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) – see recommendation in wildlife section above;
- protect and maintain pool hydrology and water quality by maintaining a 100-foot “no-disturbance” buffer; and
- maintain a pesticide-free environment.²

A shift of the proposed solar panels, in the northeast portion of the proposed site, in a southerly direction could reduce some of the potential negative impacts on the wetlands. This realignment of the solar panels relative to the airstrip, if possible, would reduce the need to remove some of the forested habitat within the CTH; reduce the percentage of CTH that would be impacted by the proposed facility; and increase the buffer distance to the identified forested wetlands.

3. Groundwater

The Petitioner states that the groundwater underlying the proposed project is not within an aquifer protection area. As depicted in Figure 3 of the Environmental Assessment, the North Canaan Aquifer Protection Area does underlie the proposed site, even though the proposed solar panels are depicted just outside of this “boundary”. Protection of the aquifer is of utmost importance. The Council recommends that consideration be given in the project design to maintaining the aquifer recharge capacity on the site. The Council also recommends that during construction and operation of the proposed facility, the Petitioner adhere to all the requirements of the North Canaan Aquifer Protection Regulations in the area proposed for panels; limit the quantity of chemicals stored on the site; establish a refueling area with an impervious surface; and adopt a Spill Prevention, Control and Countermeasure Plan.

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 input.

Sincerely,



Peter Hearn, Executive Director

² Calhoun, A. J. K. and M. W. Klemens. 2002. Best development practices: Conserving pool-breeding amphibians in residential and commercial developments in the northeastern United States. MCA Technical Paper No. 5, Metropolitan Conservation Alliance, Wildlife Conservation Society, Bronx, New York.