



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

November 16, 2022

Keith Ainsworth
Acting Chair

Alicea Charamut

David Kalafa

Kip Kolesinskas

Matthew Reiser

Charles Vidich

William Warzecha

Paul Aresta
Executive Director

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

PETITION NO. 1544 – LSE Pyxis LLC (Lodestar Energy) (Petitioner) proposed construction, maintenance and operation of a 4-megawatt AC solar photovoltaic electric generating facility located at 599 Greenwoods Road East, Norfolk, Connecticut, and Winsted-Norfolk Road, Colebrook.

Dear Attorney 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 1544.

1. **Wildlife**

The Petitioner notes that the Final Determination letter from the Connecticut Department of Energy and Environmental Protection (CTDEEP) Natural Diversity Database (NDDB) dated October 18, 2021, indicates that five state-listed species were documented on or nearby the proposed project area. The Council recommends that all of the recommendations identified in the NDDB Determination Letter, including but not limited to 1) developing a protection plan for state listed species that may occur on the property or be influenced by the project activities, 2) undertaking the suggested activities that will benefit bats, and 3) creating a site management plan to promote native vegetation growth in the area under the solar panels be a condition of approval.

A review of the US Fish and Wildlife Service (USFWS), Information for Planning and Conservation (IPAC) tool indicates that there is the possibility that ten species of migratory birds might be present in or near the project location. The Council recommends that the Petitioner assess the proposed site for suitable habitat for the ten migratory bird species, and if suitable habitat is present, follow appropriate regulations and consider implementing appropriate conservation measures to minimize the impact on those species, including but not limited to a restriction of certain construction and/or maintenance activities within the period in which the probability of their presence is greatest.

In addition, the Council recommends that the Petitioner affirm that they will comply with all the “Mitigation Recommendations” for the protection of vernal pool indicator species, identified on pages 15 and 16 of the Environmental Assessment, including but not limited to exclusionary fencing, inspections or “sweeps” of the exclusionary fencing to remove trapped amphibians, and avoidance of “decoy” vernal pools.

2. Wetlands and Vernal Pool

The Petitioner notes that there are three wetlands on the proposed project site and there is one vernal pool, identified as a Tier I type, which denotes an “exemplary pool”, associated with Wetland 1 and that a small portion of the Project area associated with the easterly solar array encroaches into the vernal pool envelope (VPE), which is the area within 100 feet of the vernal pool's edge. The Petitioner also notes that 26 percent of the area within the critical terrestrial habitat (CTH), which is the area within 100-750 feet of the vernal pool's edge, is designated as “developed”. However, the calculation of area designated as “developed” includes undeveloped areas located south (across Route 44) from the proposed project area. While Route 44 might serve as a barrier to successful wildlife migration, the Council questions why the area south Route 44 designated as “biologically unavailable” is included in the calculation of the developed area. The definition of “undeveloped” means “open land largely free of roads, structures, and other infrastructure, which includes some of the land area within the CTH designated as “biologically unavailable”. Moreover, that area should be its own category and the acreage and percent of CTH should be calculated accordingly, rather than grouping that area as “developed”. This is critically important because it has been found that Tier I vernal pools with 25 percent or less “developed” area in the CTH are “high priority” and need special protections to ensure there are no declines in breeding populations.¹

The Council recommends that the Petitioner 1) use a minimum 100-foot wetland buffer and appropriate soil and erosion control measures to protect wetlands and water quality, and 2) calculate the percentage of area within the CTH designated as “developed”, both pre- and post-construction, without including the area designated as “biologically unavailable”. Further, the Council recommends that best development practices for the identified Tier I vernal pool be applied at the proposed site, including but not limited to

- minimizing disturbed areas and protecting down-gradient buffer areas to the extent practicable;
- excluding all site clearing, grading, and construction activities from the vernal pool depression and the VPE; and
- limiting site clearing, grading, and construction activities in areas that provide optimal habitat for vernal pool indicator species within the VPE and CTH.

3. Groundwater

The Petitioner notes that the western portion of the proposed site has a groundwater classification of GAA, which indicates groundwater within the area is presumed to be suitable for human consumption without treatment, and it is within the Public Supply Watershed for the Crystal Lake Reservoir System. Consequently, the Council recommends that the Petitioner develop and implement a Spill Prevention and Control Plan to protect water resources, especially in the western portion of the proposed site, including but not be limited to: 1) restricting the servicing of construction vehicles and equipment, 2) restricting the refueling of construction vehicles and machinery on the western portion of the proposed site and requiring that refueling of construction vehicles and machinery is done on an impervious surface with secondary containment in other areas, 3) restricting the storage of fuel and other hazardous materials in the western portion of the proposed site, 4) ensuring that the use of any herbicides is strictly controlled and applied by a state-licensed pesticide/herbicide applicator, and 5) providing a fuel spill remediation kit(s) onsite for construction contractors and training the contractors on its proper use.

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

¹ 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.

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 black ink that reads "Paul Aresta". The signature is written in a cursive, flowing style.

Paul Aresta
Executive Director