



## STATE OF CONNECTICUT

# COUNCIL ON ENVIRONMENTAL QUALITY

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June 29, 2023

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

PETITION NO. 1578 – LSE Horologium LLC (Lodestar Energy) (Petitioner) 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 Parcel No. 5-6-236-21, 163 North Windham Road, Windham, Connecticut, and associated electrical interconnection.

Dear Attorney Bachman,

The Council on Environmental Quality (Council) offers the following comments regarding Petition 1578.

### 1. Wetlands

The Petitioner notes that the proposed array areas will maintain a minimum 25-foot to 50-foot buffer to wetland resource areas and that the total area of impact within 100 feet of the identified wetlands would be approximately 6.13 acres. As detailed in a recent report, “larger buffers will be more effective over the long run because buffers can become saturated with sediments and nutrients, gradually reducing their effectiveness, and because it is much harder to maintain the long term integrity of small buffers” and “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.”<sup>1</sup> Furthermore, the Town of Windham’s Inland Wetland and Watercourses Regulations, while not governing in this case, identifies a buffer area (“any area within 100 horizontal feet of the boundary of any wetlands and watercourses as identified by a soil scientist”) as a “regulated area”.<sup>2</sup> Consequently, the Council recommends that the Petitioner utilize a minimum 100-foot buffer from the proposed arrays to all identified wetlands on the proposed site.

### 2. Resource Protection Program

The Petitioner notes that a Resource Protection Plan (Plan) would be implemented to mitigate potential short-term impacts associated with construction activities. The proposed Plan would include provisions for contractor education; erosion and sediment controls / isolation barriers; petroleum materials storage and spill prevention; wetland and vernal pool protection measures; herbicide, pesticide, and salt restrictions; and reporting. The Council supports the provisions of the Plan; however, the frequency of inspections by the environmental monitor is not specified. The Council recommends that the designated environmental monitor inspect the proposed project for the duration of the Project through site stabilization, and that the inspections be done a minimum of weekly and within 24 hours of the end of a storm that generates a discharge that equals or exceeds 0.5 inch.

<sup>1</sup> 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](https://www.epa.gov/sites/production/files/2014-03/documents/final_40.pdf)

### 3. Vernal Pools

The Petitioner notes that five vernal pools were identified on the property, including two vernal pools that are a Tier 1 type and three vernal pools that are Tier 2 type. The Petitioner states that the proposed project “will maintain a minimum buffer of 100 feet to all vernal pools” and that the implementation of the proposed Plan would “mitigate potential short-term impacts associated with construction activities”. The Council supports the Petitioner’s efforts to minimize any adverse impacts on the identified vernal pools and obligate vernal pool species. In addition to the protective measures identified in the Plan, the Council recommends that the Petitioner employ best development practices,<sup>3</sup> including but not limited to:

- maintaining habitat around the pools, including both canopy and understory;
- avoiding barriers to amphibian dispersal (emigration, immigration);
- protecting and maintaining pool hydrology and water quality; and
- maintaining a pesticide and herbicide-free environment.

### 4. Prime Farmland Soils

The Council notes that portions of the proposed site, including some of the areas proposed for the installation of solar panels, are underlain by Prime Farmland Soils and Statewide Important Farmland Soils. While the proposed project is exempt from the requirement to secure a determination from the Connecticut Department of Agriculture that the proposed solar project would not materially affect the status of prime farmland soils, the proposed project would impact existing agricultural uses. Consequently, the Council recommends that the Petitioner incorporate agricultural co-use practices, such as installing the solar panels higher above the ground and spaced farther apart than conventional systems to allow in enough sun to grow crops for harvesting or for animals to graze. In addition, the Council recommends that best practices be employed during construction that might allow for the future restoration of farmland soils to more productive agricultural use by retaining the topsoil on the proposed site and minimizing grading, trenching, and compaction of farmland soils.

The Council’s 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,



Paul Aresta  
Executive Director

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<sup>2</sup> Town of Windham, Inland Wetlands And Watercourses Regulations, Amended May 13, 2004.

<sup>3</sup> 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.