



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

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VIA ELECTRONIC MAIL

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Melanie Bachman, Executive Director
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PETITION NO. 1651 – Fairy Lake, LLC (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 4.99-megawatt AC battery energy storage facility and associated equipment to be located at 380 New London Road, Salem, Connecticut, and associated electrical interconnections.

Dear Attorney Bachman,

The Council on Environmental Quality (Council) offers the following comments regarding Petition 1651.

1. Public Water Supply and Spill Prevention

The Petitioner states that “groundwater underlying the Property is classified by DEEP as “GAA”. This classification indicates groundwater within the area is presumed to be suitable for human consumption without treatment. Designated uses in GAA classified areas include existing or potential public supply of water suitable for drinking without treatment and baseflow for hydraulically-connected surface water bodies.” The Council notes that the proposed site is within a public water supply watershed of the New London Department of Public Utilities’ (DPU) Lake Konomoc System.¹ The Council recommends that the Petitioner 1) review and incorporate the protective measures identified in the Department of Public Health’s “General Construction Best Management Practices for Sites within a Public Drinking Water Supply Area” guidance document, and 2) notify the New London DPU and local health department/district prior to the commencement of construction.

The Council notes that Sheet EC-2, Erosion & Sediment Control Notes, states that “the contractor shall take all necessary precautions to avoid the spillage of fuel or other pollutants on the construction site and shall adhere to all applicable policies and regulations related to spill prevention and response/containment”. While the Council supports the intent of the note on Sheet EC-2, the Council recommends that the Petitioner develop and implement a Spill Prevention Plan for the proposed project that would include provisions to protect surface and groundwater resources during construction including, but are not be limited to: 1) requiring that refueling of construction vehicles and machinery is done on an impervious surface, 2) properly storing fuel and other hazardous materials on the proposed site, and 3) providing a fuel spill kit(s) onsite for construction contractors and training the contractors on its proper use. The Council also recommends that the Petitioner provide additional information regarding the mechanism/processes for preventing, detecting and controlling releases of cooling fluids associated with the proposed battery enclosures.

2. Wildlife

The Petitioner notes the proposed Site “potentially provides a habitat for the Northern Long-Eared Bat (“NLEB”) and the Tricolored Bat (“TCB”), which are federally endangered and State endangered listed species, respectively. The Petitioner also notes that an “effects determination” was obtained using the NLEB/TCB Determination Key (“DKey”) within the United States Fish & Wildlife Service Information for Planning and Consultation (IPaC) system for this proposed project and determined that it “may affect, not likely to adversely affect” (“NLAA”) NLEB and TCB. “The NLAA determination is conditioned on a time of year restriction (“TOYR”) for tree clearing, with tree clearing restricted to occur only during the inactive periods for NLEB and TCB, October 1 through April 14.” However, Sheet GN-1, General Notes & Legend, states that “a time of year restriction (“TOYR”) for tree clearing restricts tree removal to occur only between November 1st/ through April 14th/, during the bat's inactive season, when NLEB and TCB would likely be in hibernacula and not present in forested habitat on the subject property”. The Council recommends that the Petitioner adhere to the time of year restriction for tree clearing for the period October 1 through April 14.

3. Noise

The Petitioner notes that a sound study for the proposed project “determined that the noise levels associated with the operation of the BESS (a Class C emitter) would be above the State noise regulations for the adjacent property, which is a residential receptor” and that a 15-foot-tall sound wall has been proposed along the northeast and northwest sides of the proposed facility to ensure compliance with applicable noise standards. The Council recommends that the Petitioner conduct a post-construction noise study, when the facility is at full operation, to confirm compliance with applicable noise standards.

4. Emergency Response Plan

The Petitioner submitted an Emergency Response Plan, dated 12/15/2021 (Attachment 7) which includes provisions for public safety including, but not limited to, a requirement that “a minimum of seventy-five feet (75’) shall be maintained between individuals and the BESS enclosure exhibiting fire conditions”. However, as detailed in the Civil Plan Set (Attachment 1), the compound’s fence would be as close as 20 feet from the battery enclosures and the property line would be less than 75 feet from the battery enclosures. The Council questions if the submitted Emergency Response Plan would be applicable to the proposed project. The Council recommends that the Petitioner review and update the Emergency Response Plan and/or site plans to address site specific conditions and that the “Local and State Emergency Response Agencies” contact information be updated, as appropriate.

The Council’s comments above addresses 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

¹ Connecticut Department of Public Health, Public Water Supply Map, accessed 12-13-2024; <https://portal.ct.gov/dph/drinking-water/dws/public-water-supply-map>