



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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VIA ELECTRONIC MAIL

February 8, 2021

Ms. Sigrun N. Gadwa
Carya Ecological Services, LLC
183 Guinevere Ridge
Cheshire, CT 06410
sigrun.n.gadwa@gmail.com

RE: **PETITION NO. 1425** – Gaylord Mountain Solar Project 2019, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 1.9-megawatt AC solar photovoltaic electric generating facility located at 360 Gaylord Mountain Road in Hamden, Connecticut, and associated electrical interconnection.

Dear Ms. Gadwa:

The Connecticut Siting Council (Council) is in receipt of your e-mail dated February 6, 2021, a copy of which is attached for convenience. On December 4, 2020, Mr. Shawn O’Sullivan (O’Sullivan) requested intervenor status in the above-referenced matter and attached a copy of a November 16, 2020 report authored by you (Gadwa Report). On December 7, 2020, the Council acknowledged receipt of O’Sullivan’s request for intervenor status and attached a copy of the Council’s Information Guide to Party and Intervenor Status, which clearly states that pre-filed testimony is the only chance for parties and intervenors to make a statement of position and that oral or written limited appearance statements are reserved for members of the public who are not parties or intervenors or who are not representatives or witnesses for parties or intervenors, in the proceeding.

The Council granted O’Sullivan’s request for intervenor status during the evidentiary hearing session held on the matter on December 15, 2020. As a result, the Gadwa Report attached to O’Sullivan’s request for intervenor status became pre-filed testimony and as the author of the Gadwa Report, you became the sponsoring witness. During the appearance of O’Sullivan at the hearings held on this matter, the Council, petitioner and other parties and intervenors had an opportunity to cross examine you on the Gadwa Report.

The February 6, 2021 e-mail references “your [Connecticut Botanical Society] Field Trip Report,” dated September 15, 2018 (Field Trip Report). This Field Trip Report, authored by an intervenor’s witness, was not submitted into the evidentiary record as pre-filed testimony and was not subject to cross examination by the Council, petitioner and other parties and intervenors while the evidentiary record for this matter was open. The evidentiary record closed on January 7, 2021. The Field Trip Report cannot now be submitted into the evidentiary record as pre-filed testimony or into the public comment record as a written limited appearance statement.

Please be advised that pursuant to Connecticut General Statutes §4-177a, Connecticut General Statutes §16-50n(f) and Regulations of Connecticut State Agencies §16-50j-15b, **oral and written limited appearance statements are reserved for members of the public who are not parties or intervenors in the proceeding.** Parties and intervenors to a proceeding, such as O’Sullivan, and their respective representatives and witnesses, have specific legal rights and obligations while the evidentiary record is open

and are subject to the schedule developed by the Council to introduce pre-filed testimony and exhibits. In addition to the right to introduce pre-filed testimony and exhibits, parties and intervenors have the right to conduct cross examination of the petitioner and other parties and intervenors, as well as the obligation to be cross examined by the Council, the petitioner and other parties and intervenors. **A person or entity may not be a party or intervenor, or a party or intervenor representative or witness, to the proceeding and also submit written limited appearance statements.**

The final deadline for the submission of late-filed exhibits in this proceeding was December 30, 2020. The evidentiary record for this matter closed on January 7, 2021. O'Sullivan is an intervenor to this proceeding and you are a witness for the intervenor, O'Sullivan. You appropriately submitted pre-filed testimony and exhibits into the evidentiary record of this proceeding on behalf of the intervenor, O'Sullivan, while the evidentiary record was open. **You may not also submit written limited appearance statements into the public comment record after the evidentiary record has closed.**

Therefore, your February 6, 2021 email and the Field Report constitute extra-record, post-filed testimony as it was submitted by an intervenor's witness after the close of the evidentiary record. Neither the email nor the Field Report will become part of the record as a written limited appearance statement since they were submitted to the Council by an intervenor's witness. They will also not become part of the evidentiary record as pre-filed testimony or an exhibit since the evidentiary record in this matter closed on January 7, 2021.

Thank you.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

Enclosure

cc: Council Members
Service List

From: Hayley Kolding <hayley.kolding@gmail.com>
Sent: Saturday, February 6, 2021 8:36 PM
To: CSC-DL Siting Council <Siting.Council@ct.gov>
Subject: Letter to CSC on Petition 1425, 360 Gaylord Mountain Rd, Hamden Solar

Hello,

Attached in PDF format for your convenience is the letter written by Roberta Mack, e-mailed to you earlier today, 2-6-2021, along with the final published version of the 2019 CBS field trip report on Rocky Top, a nearby Hamden traprock ridge with comparable natural resource values to the Gaylord Mountain site. Please note that although the trip took place on 9-15-18, findings were published in the 2019 CBS fieldbook.

Thank you,
Hayley Kolding
Conservation & Ecology Committee
Connecticut Botanical Society

From: Sigrun Nicodemus <sigrun.n.gadwa@gmail.com>
Sent: Saturday, February 6, 2021 11:00 AM
To: roberta mack <heyroberta@hotmail.com>
Cc: CSC-DL Siting Council <Siting.Council@ct.gov>
Subject: Re: Petition 1425

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thank you Roberta! This is a fine letter. I had a few minor edits, mostly hyphens, which are highlighted in yellow, after pasting your text into a word document.

I added one sentence about their using wetlands in summer to stay hydrated and cool down and two references; Klemens book Reptiles and Amphibians of Connecticut and adjacent regions, and another great book about box turtles, which I'd be glad to lend you for a while.

You should submit the letter as a document, a word file saved as a pdf, along with the attachment, also saved as a pdf, with a one or two sentence covernote in the e-mail with two attachments. Do you have MS Word or not? If not I can make the pdf's, after you review the edits & emails to you, to send off. Could you please check the edits, and make sure you are OK with them. I need to get something to the post office, but you should get the highlighted letter within a few hours.

There is just one more thing. The attachment, my CBS Field Trip Report for Lauren Brown's field trip, is the final draft that I e-mailed to the Field Book editor.. We should make sure it is the same as the published version. Do you have a copy of your 2018 CBS fieldbook? Otherwise, I'll call other members and find someone who can compare the two. It is just a one page report, so it won't be difficult.

Best, Sigrun

Sigrun. N. Gadwa, MS
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183 Guinevere Ridge,
Cheshire, CT 06410
www.caryaecological.com
sigrun.n.gadwa@gmail.com
203 271 1949 (m) 203 537 1869

On Sat, Feb 6, 2021 at 9:52 AM roberta mack <heyroberta@hotmail.com> wrote:

Petition 1425 - Gaylord Mountain Road Solar Project - Melanie A. Bachman, Esq. - Executive Director/Staff Attorney CT Siting Council

February 5, 2021

Dear Ms. Bachman,

Thank you for the opportunity to submit public testimony. My name is Roberta Mack and I live below a forested slope of a trap rock ridge known as "Rocky Top." It is located a few miles from, and quite similar to, the proposed solar farm site at 360 Gaylord Mountain Road in Hamden, CT. I am a member of the CT Botanical Society (CBS) and the CBS Traprock Committee.

I am concerned about the declining Eastern Box Turtle populations in Connecticut due to the loss of many forested habitats located on and around the trap rock ridges. The solar farm proposal will involve the clear cutting of over 10 acres of deciduous forest box turtle habitat located down slope from a trap rock ridge "critical habitat" and nearby wetlands.

This forested habitat area contains mineral rich soils, thick leaf litter, berries and insects in the soft hummus, suitable for box turtles to burrow hibernation tunnels, and provides food, water and shelter they need to survive. Box turtles have an important role in the forest ecosystem for the dispersal of wildflower seeds, particularly, those of juicy fruits, such as mayapple and partridgeberry.

Native flowering plants and trees are vital to the survival of bees and other pollinators, and their seeds, fruits and caterpillars are important food sources for birds and other animals. Box turtles, that were once plentiful in this area, have become more sparse over the past several decades because of residential development. Replacing some of the remaining forest habitat with solar panels could be the last straw that wipes out their population completely.

Where I live in Hamden, there was a similar situation that threatened the box turtle population in the nearby forest. An application proposed clear cutting and quarrying a large portion of a 18 acre parcel in order to make it suitable for a 288 unit apartment complex. The parcel contained a trap rock summit habitat and deciduous forest with leaf litter and rich humus. Box turtles populations had been declining in our neighborhood and were starting to make a comeback.

Fortunately, after an environmental outcry from the surrounding residents, the developer withdrew the application, and donated the property to the Hamden Land Conservation Trust. The land and wildlife are now protected and the box turtles are becoming more plentiful again with increased sightings. I have attached the Connecticut Botanical Society (CBS) "Rocky Top" Field Trip Report for reference on commonly found native plants in trap rock ridge forested habitats.

Trap rock ridge forested habitats are extremely important to the survival of natural wildlife and animals like the Eastern box turtle. We ask the CT Siting Council to consider the importance of these types of habitats when making your decision to approve or decline applications like the proposed solar farm at 360 Gaylord Mountain Road. Thank you for your time and attention to protecting Connecticut's natural resources and wildlife!

Sincerely,

Roberta T Mack

24 Rainbow Court
Hamden, CT 06514
CBS Member/ Traprock Committee



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CONNECTICUT SITING COUNCIL INFORMATION GUIDE TO PARTY AND INTERVENOR STATUS

The Connecticut Siting Council (Council) will name or admit as a **party** any person whose legal rights, duties or privileges will be specifically affected by the Council's decision in a docket.

The Council will name or admit as an **intervenor** any person whose participation is in the interests of justice and will not impair the orderly conduct of the proceedings.

Service List and Service Requirements

Once a person is named or admitted as a party or intervenor, they will be added to the "Service List," which lists all of the participants in a docket that is prepared and made available to the public under the link for a specific docket on the "Pending Proceedings" page on the Council website. Parties and intervenors will receive documents via e-mail. If a party or intervenor prefer to have hard copies of documents via regular mail, they must notify the Council in writing. Also, documents filed with the Council must contain one original, 15 copies and an electronic version for scanning to the website via e-mail or disk. The Council, parties and intervenors must send a copy of any document filed in a docket to every person on the service list and include a certification as follows:

"I hereby certify that a copy of the foregoing document was electronically mailed to the following service list on (date)." Signature and printed name of the sender.

Conduct of the Proceedings

- A. Pre-hearing Conference:** The Council will schedule a pre-hearing conference on procedural matters in the Council's office or by telephone. All parties and intervenors are requested to attend or participate. This is the proper venue to informally discuss the Council's procedure and ask any questions related to procedure. Failure to attend results in a lost opportunity to discuss process matters. The Council will also announce a schedule for the submission of pre-filed testimony and pre-hearing interrogatories.
- B. Pre-Filed Testimony:** The Council requires that testimony be pre-filed with the service list before the hearing to avoid direct testimony and to save the time and expense of the public at the hearing. Pre-filed testimony is the only chance for parties and intervenors to make a statement of

position. Pre-filed testimony is posted on the docket webpage and is part of the record in a proceeding. Pre-filed testimony consists of allegations of fact and statements of position with exhibits attached in support of the allegations of fact and stated position. Parties and intervenors are not permitted to make statements (ex. directly testify) during the hearing.

- C. Pre-hearing Interrogatories:** The Council encourages parties and intervenors to file pre-hearing questions to the applicant and other parties and intervenors in the proceeding on any information in the record, including, but not limited to, the application, other pre-hearing questions, pre-filed testimony of the applicant or pre-filed testimony of other parties and intervenors in the proceeding. Pre-hearing questions are an opportunity for parties and intervenors to request more information. The applicant, parties and intervenors are obligated to respond to pre-hearing questions directed to them that are filed by the Council, the applicant and any party or intervenor in the proceeding in accordance with the schedule announced by the Council.
- D. Administrative Notice:** The Council routinely develops a list of exhibits known as “Administrative Notice Items” in every docket. Administrative Notice items are generally recognized technical or scientific facts within the Council’s specialized knowledge, including, but not limited to, prior decisions of the Council, publications of federal state agencies such as the Federal Communications Commission and publications of other state agencies such as the Department of Transportation. Scientific studies or publications for which the author is not available for questioning by participants in the proceeding should be submitted as administrative notice items rather than exhibits attached to pre-filed testimony.
- E. Experts and/or Witnesses:** Experts and/or witnesses are the authors of pre-filed testimony and attached exhibits. They are the sponsors of the information contained in pre-filed testimony and are sworn in during the hearing. After the experts and/or witnesses are sworn in, they are made available for questioning by the Council and other participants in the proceeding. Experts and/or witnesses may not present new evidence or provide direct testimony. For example, if a party or intervenor presents a land survey in their pre-filed testimony, the author or engineer that prepared the land survey must be present at the hearing, sworn in and available to answer questions pertaining to the land survey that are asked by the Council and the other participants in the proceeding.
- F. Cross examination at the hearing:** The Council, applicant, parties and intervenors have an opportunity to cross-examine the witnesses appearing on behalf of the applicant or other parties and intervenors during the hearing. This means that the person conducting the cross-examination asks questions of the witnesses. The applicant and parties and intervenors submit to cross-examination from the Council, the applicant and other parties and intervenors. The order of appearances and cross examination will be governed by a hearing program developed by the Council for the proceeding. Order of appearance is determined by the order in which parties and intervenors were named or admitted by the Council. Typically, the hearing proceeds as follows:
1. Opening Statement from the Council Chairman
 2. Administrative Notice Items of the Council
 3. **Applicant’s Appearance**

- a. Identification of Exhibits (pre-filed testimony, responses to pre-hearing interrogatories)
- b. Swear Witnesses
- c. Cross Examination of the Applicant by:
 - i. Council
 - ii. Party
 - iii. Intervenor

4. **Appearance by Party**

- a. Identification of Exhibits (pre-filed testimony, responses to pre-hearing interrogatories)
- b. Swear Witnesses
- c. Cross Examination of Party by:
 - i. Council
 - ii. Applicant
 - iii. Intervenor

5. **Appearance by Intervenor**

- a. Identification of Exhibits (pre-filed testimony, responses to pre-hearing interrogatories)
- b. Swear Witnesses
- c. Cross Examination of Intervenor by:
 - i. Council
 - ii. Applicant
 - iii. Party

6. **Oral Limited Appearance Statements/Public Comment Session**

- this portion of the hearing is reserved for members of the public who are not parties and intervenors in the proceeding to express concerns
- members of citizens' groups or associations that have attained party or intervenor status are represented by the group or association and may not also provide oral limited appearance statements

7. **Rebuttal by Applicant:** Limited to facts and evidence addressed during the hearing. No argument or closing statements/remarks will be allowed.

G. Post-Hearing Procedure: At the conclusion of the hearing, when the evidentiary record is officially closed, the Council announces a post-hearing schedule for written limited appearance statements, briefs and proposed findings of fact. No new information, no new evidence and no arguments will be considered by the Council.

1. 30 Day Written Limited Appearance/Public Comment Period: Written

limited appearance statements from the public are accepted within 30 days after the close of the hearing. Parties and intervenors may not submit additional written statements after the close of the evidentiary record.

- 2. Post Hearing Brief and Proposed Findings of Fact Schedule:** Parties and intervenors may file a brief with the Council summarizing allegations of fact and statements of position presented during the evidentiary hearing. Parties and intervenors may also submit suggestions of facts in the record for inclusion in the Council's final decision.
- 3. Draft Findings of Fact Issued by Council:** The Council will issue draft findings of fact from the record to be issued as part of the final decision. Parties and intervenors will be given an opportunity to identify errors or inconsistencies between the Council's draft findings of fact and the record.
- 4. Final Decision:** The Council will make a final decision at a regular Council meeting. The agenda for all Council meetings is published on the Council website. All parties and intervenors to a docket that is on an agenda will receive a copy of the agenda. Although regular Council meetings are open to the public, there is no opportunity for public participation during the meeting. All parties and intervenors will receive a copy of the final decision in the mail.