

Lee D. Hoffman
90 State House Square
Hartford, CT 06103-3702
p 860 424 4315
f 860 424 4370
lhoffman@pullcom.com
www.pullcom.com

December 5, 2018

VIA ELECTRONIC MAIL AND U.S. MAIL

Melanie Bachman
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Petition 1347 - GRE GACRUX LLC Petition for a Declaratory Ruling, Pursuant to Conn. Gen. Stat. §4-176 and §16-50k, for the Proposed Construction, Maintenance and Operation of a 16.78 MW AC Ground-mounted Solar Photovoltaic Electric Generating Facility Located on Oil Mill Road in Waterford, Connecticut

Dear Ms. Bachman:

I am writing on behalf of the Petitioner, GRE Gacrux LLC ("GRE") in response to the Connecticut Department of Energy Environmental Protection's December 4, 2018 letter to the Siting Council. GRE would first note that the Department's letter was untimely filed, since the Council provided notice on November 7, 2018 that all comments related to GRE's Motion for Reconsideration needed to be filed with the Council no later than November 21, 2018. The Department did not file its comments until nearly two weeks after this deadline has passed.

More importantly, however, the Department's comments seek to introduce ideas that are nowhere to be found in the record for this Petition. Specifically, GRE takes issue with the Department's assertion that the timber harvest at the site has a "documented connection to the planned development into the proposed solar photovoltaic electric generating facility" that would have required both a wildlife survey and an application for coverage under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities.

Put simply, there is no documented connection between the timber harvest and the solar project. The lease for the project (attached as Exhibit D and referenced in the Petitioner's response to Interrogatory 15) clearly demonstrates that timber harvesting was contemplated by the current owners of the site, and was going to be completed regardless of whether the project was approved or permitted. Indeed, the current owners of the project site wrote to the Council earlier today and clearly stated that the solar project and timbering activities were wholly independent of one another, and that the land owners have been timbering this property for years. It should be noted that these landowners sought and received permission from the Waterford Conservation Commission in January of 2018 to undertake the timber harvest, well before the project filed its

petition to the Siting Council. A copy of that approval, along with the landowners' letter, is attached hereto.

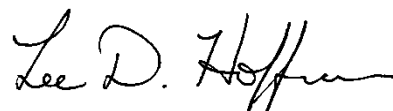
There is nothing in the record of this Petition that indicates that GRE had anything to do with the timber harvest, that GRE directed the timber harvest in any way, or that GRE and the property owners had any arrangements regarding the timber harvest other than what was spelled out in the lease that was provided to the Council. DEEP's argument is pure speculation and has no basis in the record of this Petition.

Relying on this assertion by the Department places the Council's decision in jeopardy, as "reliance on extra-record evidence for important facts demonstrates substantial prejudice." *Connecticut Natural Gas Corp. v. PUCA*, 183 Conn. 128, 139 (1981), citing *Seacoast Anti-Pollution League v. Costle*, 572 F.2d. 872, 881 (1st. Cir. 1978) n. 19. See also, *Norooz v. Inland Wetlands Agency of Town of Woodbury*, 26 Conn. App. 564, 570-71, 602 A. 2d 613 (1992) (an administrative agency may not base a decision on evidence not in the record) and *Mattabassett Grp., Inc. v. Inland Wetlands & Watercourses Agency of City of Middletown*, No. 60372, 1992 WL 83535, at *4 (Conn. Super. Ct. Apr. 21, 1992) "Nothing can be treated as evidence which is not introduced as such."

As such, the Departments comments should not be given any weight by the Council. To the extent that the Council wishes to give these comments weight, GRE would respectfully submit that the Department's primary concern – that no further activities occur on the site until full approval is received from the Department's permitting offices and the Council – has already been fulfilled in the Staff Report's requirements of a D&M Plan and receipt of the General Permit before construction can commence.

As such, GRE respectfully requests that the Council re-consider its decision and allow the project to move forward as described in GRE's Motion for Reconsideration. If you have any questions concerning this submittal, please contact the undersigned at your convenience. I certify that copies of this submittal have been submitted to the Town of Waterford and to counsel for Save the River-Save the Hills.

Sincerely,

A handwritten signature in black ink that reads "Lee D. Hoffman". The signature is written in a cursive, flowing style.

Lee D. Hoffman

Enclosure

cc: Oswald Inglese, Jr., CT DEEP

December 5th, 2018

Dear Ms. Bachman,

We write to you as the landowners for the property located at 117 Oil Mill Road, Waterford CT. This property was recently submitted to the CT Siting Council, Petition No. 1347 "GRE GACRUX LLC" for a 16.78 MW AC solar photovoltaic electric generating facility for declaratory ruling.

It has come to our attention via the CT Siting Council and through local organizations that there is speculation surrounding the recent tree harvest on our property. We'd like to make it clear that this land has been owned by our family for multiple decades, tree harvests routinely occur as a way to retain income similar to any other farming practice. As the landowners of the property we would like to formally notify the CT Siting Council that GRE GACRUX LLC had no influence and/or authority to influence our decision to conduct our tree harvest.

Our property is zoned RU 120, tree harvests are permitted within this zone through local permits with the town of Waterford, our permits, which were obtained in January of this year, can be found attached to this letter. As the landowners, we have abided by all local rules and regulations, the harvest was conducted in a safe and regulated manner by a professional forester. GRE GACRUX simply has an option to lease our property and has absolutely no authority or right to conduct a tree harvest during the Option Period, therefore any speculation as to their part and/or say in the harvest should be disregarded immediately.

The harvest has since been completed and all commercial vehicles are off the property. We ask that the CT Siting Council reconsider its decision to deny the project without prejudice on the grounds that GRE GACRUX LLC had no influence over our lumber harvest on our property. We hope that this letter, at the very least, removes any speculation as to the way in which our harvest was conducted.

Thank you for any consideration that you choose to give this.

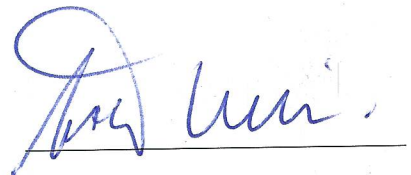
Sincerely,



Rosalie Watson

Landowner

117 Oil Mill Road, Waterford CT



Todd Willis

Landowner

117 Oil Mill Road, Waterford CT

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2886



PHONE: 860-442-0553
www.waterfordct.org

January 18, 2018

Hull Forest Products, Inc.
c/o Chris Casadei – Forester
101 Hampton Road
Pomfret Center, CT 06259

Re: Timber Harvest- 117 Oil Mill Road, Waterford, CT

Mr. Casadei,

The Waterford Conservation Commission reviewed the proposed timber harvest plan for land at 117 Oil Mill Road at their meeting of January 11, 2018. The Commission determined that the harvest activity and the use of a temporary bridge and corduroy crossing of an intermittent watercourse and wetlands meets the criteria for a permitted use under Section 4.1a of the Waterford Inland Wetlands and Watercourses regulations.

The following best management practices are recommended to protect inland wetlands and watercourses on the site from direct and secondary impacts associated with the proposed harvest:

1. Use temporary corduroy approaches at the temporary stream crossing to minimize disturbance to the stream channel and embankments;
2. Install water bars on primary haul routes to control run-off and erosion of exposed soils;
3. Upon completion of the timber harvest, remove the temporary crossings and smooth ruts in disturbed soils to pre-existing grades. Seed and hay exposed soil areas on skid trails and haul routes.

Please notify this office at the completion of the harvest activity to schedule a site inspection to review site stabilization. If you have any questions, do not hesitate to contact me at 860 444-5813.

Sincerely,

Maureen FitzGerald
Environmental Planner

cc: Rosalie Irene Watson: 149 Watson Rd, Preston, CT 06365
Thomas Lane, Zoning Official
Waterford Conservation Commission