



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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www.ct.gov/csc

CERTIFIED MAIL RETURN RECEIPT REQUESTED

January 6, 2020

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702

RE: **PETITION NO. 1385** – Cobb Road, 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 1.95-megawatt AC solar photovoltaic electric generating facility on approximately 11.16 acres located at 20-1 Short Hills Road, Old Lyme, Connecticut and associated electrical interconnection.

Dear Attorney Hoffman:

At a public meeting held on January 2, 2020, the Connecticut Siting Council (Council) considered and ruled that the above-referenced proposal meets air and water quality standards of Department of Energy and Environmental Protection (DEEP) and would not have a substantial adverse environmental effect, and pursuant to Connecticut General Statutes § 16-50k, would not require a Certificate of Environmental Compatibility and Public Need, with the following conditions:

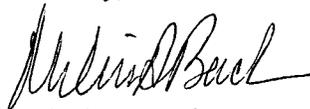
1. Approval of any minor project changes be delegated to Council Staff;
2. The Petitioner shall prepare a Development and Management Plan (D&M) for this facility in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) A final site plan including, but not limited to, final solar panel layout, access roads, electrical interconnection, fence design, and equipment pads;
 - b) Copy of DEEP General Permit;
 - c) Construction site plans that comply with the DEEP-approved Stormwater Pollution Control Plan that include, but are not limited to, site clearing, grading, site phasing, construction laydown areas, erosion and sedimentation controls, and details regarding construction-related environmental mitigation measures;
 - d) Final Wetland and Vernal Pool Protection Plan;
 - e) Post-construction restoration plan for all disturbed areas of the site;
 - f) Post-construction site maintenance and vegetation management plan; and
 - g) Contact information for construction contractor.
3. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed within three years from the date of the mailing of the Council's decision, this decision shall be void, and the facility owner/operator shall dismantle the facility and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable;

4. Any request for extension of the time period to fully construct the facility shall be filed with the Council not later than 60 days prior to the expiration date of this decision and shall be served on all parties and intervenors, if applicable, and the Town of Old Lyme;
5. Within 45 days after completion of construction, the Council shall be notified in writing that construction has been completed;
6. The facility owner/operator shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v;
7. This Declaratory Ruling may be transferred, provided the facility owner/operator/transferor is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
8. If the facility owner/operator is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the petition dated October 7, 2019 and additional information received on November 21, 2019 and December 23, 2019.

Enclosed for your information is a copy of the staff report on this project.

Sincerely,



Melanie A. Bachman
Executive Director

MAB/MP

Enclosure: Staff Report dated January 2, 2020

- c: The Honorable Timothy Griswold, First Selectman, Town of Old Lyme
Kim Groves, CZET, Land Use Technician, Town of Old Lyme
Parties and Intervenors
James P. Schwartz, Managing Member, Cobb Road, LLC



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Petition No. 1385

Cobb Road, LLC

1.95 MW AC Solar Photovoltaic Electric Generating Facility

20-1 Short Hills Road, Old Lyme

Staff Report

January 2, 2020

Introduction

On October 7, 2019, Cobb Road, LLC (CR or Petitioner) submitted a petition to the Connecticut Siting Council (Council) for a declaratory ruling pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k for the construction, operation and maintenance of a 1.95 megawatt (MW) alternating current (AC) solar photovoltaic electric generating facility located at 20-1 Short Hills Road in Old Lyme, Connecticut.

CR is an affiliate of Independence Solar, LLC, a developer and installer of commercial solar energy projects in the New England and Mid-Atlantic regions. CR would obtain necessary Department of Energy and Environmental Protection (DEEP) permits. The construction contractor and/or CR would secure necessary local building and electrical permits.

On October 8, 2019, the Council sent correspondence to the Town of Old Lyme (Town) stating that the Council has received the Petition and invited the Town to contact the Council with any questions or comments by November 6, 2019.

On October 29, 2019, a field review of the project was held at the site that was attended by the following: Council member Robert Hannon; Council staff member Michael Perrone; Linda Brunza, Analyst, DEEP; Anne Galliher, Old Lyme Land Trust (OLLT)¹; Jonathon Lathrop, OLLT; Amanda Blair, Old Lyme Open Space Commission (OLOSC); Gary Gregory, OLOSC; Evan Griswold, OLOSC; and Petitioner representatives Amanda Gurren, Esq., Pullman & Comley, LLC; James Schwartz, Managing Member, CR; Michael Libertine, Vice-President, All Points Technology Corporation (APT), Brad Parsons, Project Manager, APT; and Brian Parker, Project Manager, APT.

On November 6, 2019, the Council issued interrogatories to the Petitioner. The Petitioner submitted responses to the interrogatories on November 20, 2019.

On November 5, 2019, the Council received a request from #SmartSolarCT for intervenor status and a request that the Council hold a public hearing on this Petition. On November 6, 2019, the OLOSC also requested a public hearing on this Petition.

On November 21, 2019, the Council granted intervenor status to #SmartSolarCT. Also on November 21, 2019, the Council denied the requests for a public hearing and pursuant to CGS §4-176(e) of the Uniform Administrative Procedure Act, which requires an administrative agency to take action on a petition within 60 days of receipt, the Council voted to set the date by which to render a decision on the petition as April 4, 2020. April 4, 2020, is the statutorily-mandated 180-day decision deadline for this petition under CGS §4-176(i).

¹ OLLT is a non-profit organization. It is not a Town board or commission.

On December 5, 2019, #SmartSolarCT issued interrogatories to the Petitioner. The Petitioner submitted responses to the interrogatories on December 23, 2019.

Municipal Consultation

For approximately 18 months prior to submitting the Petition to the Council, the Petitioner worked closely with Town officials to publicize the project, solicit input and feedback on project elements, and develop a structured tax agreement with the Town. The Petitioner met with Town First Selectwoman Bonnie Reemsnyder on July 29, 2019 to discuss the proposed project. The Town did not raise any concerns at the meeting and was interested to review the Petition when it is filed with the Council. The Petitioner also had initial conversations with the Old Lyme Fire Department (OLFD) Chief to review the project and answer questions.

On or about September 24, 2019, the Petitioner notified Town officials, state officials and agencies, and abutting property owners of the proposed project.

OLOSC provided comments to the Council on November 6, 2019, and the comment letter is attached to this staff report.

State Agency Comments

On October 8, 2019, the Council sent correspondence requesting comments on the proposed project from the following state agencies: Department of Energy and Environmental Protection (DEEP); Department of Agriculture (DOAg); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Emergency Services and Public Protection (DESPP); Department of Consumer Protection (DCP); Department of Labor (DOL); Department of Administrative Services (DAS); Department of Transportation (DOT); the Connecticut Airport Authority (CAA); and the State Historic Preservation Office (SHPO). The Council requested that comments be submitted by November 6, 2019.

The CEQ responded on October 28, 2019. CEQ's comment letter is attached to this staff report. DEEP responded on November 12, 2019. DEEP's comment letter is also attached. No other state agencies commented on the project.

While the Council is obligated to consult with and solicit comments from state agencies by statute, the Council is not required to abide by the comments from state agencies.²

Public Act 17-218

Effective July 1, 2017, Public Act 17-218 requires, "for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by DEEP in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the DOAg represents, in writing, to the Council that such project will not materially affect the status of such land as prime farmland or DEEP represents, in writing, to the Council that such project will not materially affect the status of land as core forest."

The proposed solar project has a capacity of 1.95 MW AC; therefore, it is exempt from the provisions of Public Act 17-218.

² *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007)

Public Benefit

The project would be a distributed energy resource facility as defined in CGS § 16-1(a)(49). CGS § 16a-35k establishes the State's energy policy, including the goal to "develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent." The 2013 Connecticut Comprehensive Energy Strategy (CES) emphasizes low- or no-emission sources of electric generation and development of more distributed generation. The 2018 CES identifies Strategy No. 3 as, "Grow and sustain renewable and zero-carbon generation in the state and region." The proposed facility is distributed generation and will contribute to fulfilling the State's Renewable Portfolio Standard as a zero emission Class I renewable energy source.

The project was selected by Eversource and awarded a 15-year contract to participate in the Low Emission Renewable Energy Credit (LREC) program. Pursuant to the LREC Agreement, the Petitioner would sell all of the Class I renewable energy certificates (RECs) it expects to generate from the proposed project to Eversource.

The Project would have a capacity factor of approximately 22.6 percent on an AC MWh basis.

Project Site

The project site is located on an approximately 120.23-acre parcel located north of Short Hills Road in Old Lyme. The site consists of primarily undeveloped land that is transected from west to east by an Eversource distribution right-of-way (ROW). A single-family residence and a small cabin are located in the northeastern and southeastern corners of the subject property, respectively. The site vicinity is characterized as rural, with a mix of largely undeveloped land and sparse residential development. Parcels over 1,100 feet south and east of the proposed site are currently being developed for residential subdivisions by a private developer. The subject property is zoned Rural Residence (RU80) and owned by Howard S. Tooker.

The RU80 Zone allows for single family dwellings; community residence; farming; commercial propagation and growing of flowers and nursery stock; commercial logging; and temporary construction storage/office trailers. Other types of development are permitted through site development plan review (e.g. commercial livery, boarding stables and horse riding academies) or by special permit including but not limited to, public utility substation, transformer or other facility, or alternative energy systems.

Proposed Project

The proposed project consists of a 1.95 MW AC (3.00 MW direct current) solar facility comprised of approximately 7,704 solar modules located within the north-central portion of the subject property. The 390 watt modules would be installed on a fixed-tilt racking system and oriented to the south at a 25 degree angle. The 25 degree tilt angle would maximize energy production from the site.

The solar modules would be installed on a racking system, arranged in 35 rows with approximately 13-foot 5-inch spacing between the rows. The Petitioner would utilize screw anchors to support the racking system. The screw anchors would be spun into the ground using advanced ground screw install machines. The depth of the screw anchors would be determined by the rack manufacturer. In the event that ledge is encountered, the holes would be pre-drilled prior to the anchor installation.

The solar panels would be attached to the racking system so that the top and bottom edges of the solar panels would be approximately 10 feet and 3 feet above grade, respectively.

The Petitioner would utilize a string inverter design which would require approximately nine 166-kW AC and three 150-kW AC inverters. The string inverters would be mounted to the solar panel racks, without the need for additional equipment pads. Thus, the selected string inverters reduce the area required for equipment.

The efficiency of the solar modules is approximately 19.7 percent. The power output would decrease over time at an average rate of about 0.5 percent per year as the panels age. Electrical losses associated with the inverters and project wiring have been factored into the output of the facility. The operational life of the facility is a minimum of 25 years.

The electrical interconnection would run underground from equipment pads in the southeastern portion of the site to reach a new pole directly south of the access drive. The electrical interconnection would continue overhead to the southwest utilizing four additional poles³ before connecting to existing 23-kV three-phase Eversource electric distribution service in the Eversource ROW directly south of the site.

The Petitioner is required to apply for interconnection approval from Eversource. A System Impact Study (SIS) was performed for the interconnection process, and Eversource issued a final report for the proposed project on August 22, 2018. The SIS found that the existing distribution infrastructure can accommodate the proposed project without the need for significant upgrades, aside from adding some standard relay protection equipment to the circuit and installing the wiring to connect the Project to the existing utility lines running adjacent to the site.

The solar field area would be enclosed by a seven-foot tall chain link fence. The nearest off-site residence to the proposed project area is approximately 750 feet to the south at 18-1 Short Hills Road.

The main entrance to the proposed facility would be located in the southeast corner of the project area and would have a chain link swing gate. Two additional chain link gates would be installed along the western fence line to provide access for maintenance of the proposed stormwater basins.

Vehicle access to the site would utilize the existing gravel access drive that originates at the northern limits of the Great Oak Road cul-de-sac and extends north into the proposed site. The existing access would not require improvements. Approximately 1,644 feet of new 20-foot wide gravel access would be constructed on site along the southern, western, and northwestern portions of the site's perimeter between the solar arrays and fence.

The proposed project would disturb an approximately 12.72-acre area. Approximately 12.33 acres would be subject to tree clearing and grubbing, and an additional 0.39 acres would consist of tree clearing only.

The eastern portion of the project area would be used for material staging areas. This area between the proposed fence and the eastern limits of disturbance, as well as the area between the southern fence and the southern limits of disturbance, totaling about 1.23 acres, would later be seeded with pollinator habitat seed mix to create a wildflower meadow. This would serve as stopover habitat for migratory birds and pollinators. This meadow would be mowed once annually.

Construction is expected to occur Monday through Saturday from 7:00 a.m. through 6:00 p.m. If Sunday work days are required, construction would occur from 9:00 a.m. to 5:00 p.m. Construction of the facility is expected to commence in the spring of 2020; however, site clearing may begin sooner during winter months upon securing required approvals and weather permitting. Final installation of all solar facility

³ All five poles would be about 40 feet tall.

equipment is expected in late fall of 2020, along with interconnection, testing, commissioning, and final site stabilization.

Public Safety

The nearest federally-obligated airport is the Groton-New London Airport, located approximately 11 miles east of the proposed site. Federal Aviation Administration (FAA) policy requiring glare analyses is limited to solar development on airport facilities and within nearby approach zones. The Petitioner also ran an FAA 7460-1 Aeronautical Study, which resulted in a determination of No Hazard to Air Navigation.

The Petitioner has begun outreach and training relative to fire safety/emergencies at the proposed site. Specifically, a representative of the Petitioner met with several members of the OLFD on November 6, 2019. During that meeting, the Petitioner provided OLFD personnel with an overview of the proposed project and equipment, site plans, and Material Safety Data Sheets for the solar panels. In addition, the Petitioner discussed the means of disconnecting power from the system in the event of an emergency, roads that would be used by OLFD to access the site and the various system components, e.g. panels, inverters, racking, switchgear, and transformers, and any associated hazards.

The Petitioner also committed to providing the OLFD with the following:

- a) A Knox Box with gate access keys at the main entrance;
- b) Signage at the proposed site, which identifies system components and hazards;
- c) Contact information for the Petitioner's representative to contact 24/7 in the event of an emergency (which will also be included in the site's signage);
- d) As-built project plans, in electronic format, to include an auto-dispatch system and loading on field iPads;
- e) Project pictures, including aerial images with a Project map, to include in auto-dispatch system and loading on field iPads; and
- f) Training session for OLFD personnel during the Project's construction and after the Project's completion to ensure that OLFD personnel are familiar with Site layout, System components, and common hazards.

The solar facility's design includes a main shut-off switch for the 23-kV connection to the utility grid, which would be located at the main entrance to the facility. When the main switch is opened (i.e. turned off), power to the entire solar facility (including the transformer, switchgear, and inverters) will shut off, and all of the inverters will cease operations. The solar panels would remain energized if sunlight is present, but this would only represent a hazard if there is damage to panel-level wiring. The Petitioner discussed this topic with OLFD during its November 6, 2019 meeting.

The project would comply with DEEP Noise Control Regulations.

The Project would be designed in accordance with applicable codes and standards including, but not limited to, the National Electrical Code, National Electrical Safety Code and National Fire Protection Association.

Environmental Effects and Mitigation Measures

Cultural Resources

No properties or historic standing structures listed on or eligible for listing on the National or State Registers of Historic Places are located on or proximate to the site. A Phase 1A Cultural Resources Assessment Survey Report (Phase 1A Report) notes that two archaeological sites are located within one mile of the

subject property: 3 Mile River Rockshelter #1, also known as Bludee Rock; and 3 Mile River Rockshelter #2. Neither site would be impacted by the proposed project.

The Phase 1A Report notes that the proposed site contains approximately 7 acres of land in the eastern and central portions of the project parcel that possess a moderate/high sensitivity area for containing intact archaeological deposits. The remaining 4.7 acres of the project parcel was determined to possess no/low archaeological sensitivity.

A Phase 1B Cultural Resources Reconnaissance Survey Report notes that shovel tests were performed, and a single prehistoric cultural resource locus, known as Locus 1, was identified. None of the archaeological deposits identified within Locus 1 retain research potential or the qualities of significance as defined by the National Register of Historic Places criteria. Thus, no additional testing of Locus 1, or the remainder of the project parcel, is recommended prior to construction of the proposed solar facility.

Visibility

The solar modules are designed to absorb incoming solar radiation and minimize reflectivity, such that only a small percentage of incidental light would be reflected off the panels. This is less reflective than common building materials, such as steel or the surface of smooth water.

In general, year-round visibility of the proposed facility would be minimal and confined to areas immediately surrounding the development. Limited seasonal views (i.e. under "leaf off" conditions) could extend to abutting properties immediately south of the Eversource ROW. Seasonal views beyond the proposed facility could extend upwards to approximately 550 to 650 feet in all directions, primarily through existing mature vegetative screening. The nearest recreational area is the OLLT's Lay Preserve which abuts the site to the west/northwest. The proposed facility is not expected to be visible from any OLLT properties or Town Open Space properties. The combination of the proposed facility's low height, remote location and the presence of mature vegetation would serve to minimize the extent of the Project's overall visibility from most locations off of the site.

Agriculture

The solar field development area is not mapped as prime agricultural soil. DOAg did not comment on the proposed project.

Wetlands

A total of five wetlands were identified on the site. However, no wetlands or watercourses were identified within the project area.

Wetland 1 is located approximately 214 feet east of the project area and consists of a very small anthropogenic (man-made) feature that formed when a dug borrow pit intercepted the seasonal high groundwater table.

Wetland 2 is located approximately 379 feet east of the project area and consists of a headwater wetland system that drains to the east via an earthen outlet and eventually flows to the Threemile River.

Wetland 3 is located approximately 396 feet southwest of the project area. It is a hillside seep wetland that extends northward into the Eversource ROW.

Wetland 4 is located approximately 104 feet west of the project area. It is a shallow depression wetland that extends northward off the site. A topographic swale extends south/southwest from the southern end of Wetland 4 and eventually reaches Wetland 5. However, the topographic swale does not meet the definition of an intermittent watercourse.

Wetland 5 is located approximately 511 feet west of the project area and is a large forested wetland system with an interior unnamed perennial watercourse that flows north.

A single cryptic vernal pool, known as Vernal Pool 1 (VP1), was identified in Wetland 2 in the man-made pond. VP1 was surveyed for the presence of indicator species on March 21, 2019 and April 11, 2019. Presence of two indicator species, wood frog and spotted salamander, were confirmed.

The 100-foot Vernal Pool Envelope for VP1 would not be impacted because the proposed development would be approximately 307 feet away. The 100-foot to 750-foot Critical Terrestrial Habitat (CTH) area is currently about one percent developed pre-construction. The proposed facility location was intentionally selected to balance the need to minimize CTH impacts to VP1 versus encroachment into the upland buffer to Wetland 4. As proposed, the post-construction percent developed area of the CTH area would be about 15 percent.

The proposed project is consistent with the U.S. Army Corps of Engineers New England District's Vernal Pool Best Management Practices dated January 2015. Additionally, potential short-term impacts to the herpetofauna associated with the VP1 habitat would be avoided/minimized by the proper installation and maintenance of erosion and sedimentation controls in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control (2002 CT Guidelines)* and the implementation of the WVPPP.

There would be no direct wetland impacts, and potential short-term temporary impacts associated with project construction activities would be minimized by the proposed erosion and sedimentation controls developed in accordance with the *2002 CT Guidelines*. The Petitioner also proposes best management practices in its Wetland and Vernal Pool Protection Plan (WVPPP)⁴. Thus, the proposed project would not result in an adverse impact to wetland and vernal pool resources.

Wildlife

The proposed site is not located within 0.25-mile of a Connecticut Department of Energy and Environmental Protection (DEEP) Natural Diversity Database (NDDDB) buffered area. DEEP's Instructions for Completing a Request for NDDDB State Listed Species Review notes that, "If your project does not intersect an NDDDB area and you are not otherwise a[wa]re of the presence of any state or federal listed species on the site, you do NOT need to submit the Request for Connecticut Natural Diversity Data Base State Listed Species Review."⁵

Connecticut is within the range of the northern long-eared bat (NLEB), a federally-listed Threatened species and State-listed Endangered species. However, the proposed facility would not be located within 150 feet of any known occupied maternity roost tree or within 0.25-mile of any known NLEB hibernaculum. The

⁴ The WVPPP protection plan includes, but is not limited to, project and work area isolation via erosion and sediment controls, herpeto-fauna sweeps, petroleum materials storage and spill prevention measures, contractor education, periodic inspection and maintenance of erosion and sediment controls, and reporting.

⁵ Instructions for Completing a Request for NDDDB State Listed Species Review, DEEP-INST-007, Revised 11/8/17, available at https://www.ct.gov/deep/lib/deep/endangered_species/general_information/nddb_inst.pdf

Petitioner also submitted a NLEB Final 4(d) rule Streamlined Consultation Form to the U.S. Fish and Wildlife Service on June 20, 2019. No response was received from USFWS. Thus, the proposed project is not likely to result in an adverse impact to the NLEB.

A four to six-inch gap between ground level and the bottom edge of the solar field fence would be incorporated into the project fence design to allow for small wildlife movement.

The existing slopes within the project area would require minimal alteration. No cut or fill would be required for the solar field, only shaping where necessary. If any excess cut results from the installation of the stormwater basins and access drive, the material would be spread throughout the site to minimize the removal of materials from the site.

Areas within the perimeter fence would be planted with a seed mix consisting of cool season fescue species; deeper rooted, short-stature warm season grasses such as little bluestem and purple love grass; and low growing nitrogen fixing forbs such as partridge pea, red clover, and trailing clover. The solar array areas would be mowed twice per year. The Petitioner seeks to avoid the use of herbicides and pesticides. The Petitioner is currently considering a number of techniques/practices that could mitigate the need for the use of herbicides and pesticides going forward. However, the Petitioner notes that the use of such measures might be necessary for invasive species control.

Core Forest

The proposed project would require roughly 12 acres of tree clearing within a mixed hardwood forest. Of those 12 acres, approximately 8 acres would be considered core forest, and approximately 4 acres would be considered edge forest. In addition to the tree removal component, development of the proposed facility would convert approximately 10 acres of interior core forest to edge forest. The Petitioner's ability to further limit impact to forest habitat is largely constrained due to the forest habitat that surrounds the proposed site. Specifically, if the Petitioner were to shift the facility either to the east or west of its proposed location, the facility would similarly encroach into forest habitat and therefore would not result in reduced impacts.

As proposed, total core forest would be reduced by about 4.3 percent from 421 acres pre-construction to approximately 403 acres post-construction. The facility's location in the southern portion of the forest block minimizes habitat loss. Thus, as result of the clearing at the periphery of the forest block and the relatively small area of forest block reduction, the proposed project is not expected to adversely impact forest interior species.

Air Quality

The solar project would not produce air emissions of regulated air pollutants or greenhouse gasses during operation and therefore, would comply with air regulations.

Water Quality

The proposed project is not within a DEEP-designated Aquifer Protection Area. Notwithstanding, the installation of the screw anchors to fasten the racks would not be expected to impact groundwater quality.

The proposed facility would be located within the Federal Emergency Management Agency-designated unshaded Zone X, an area outside of the 100-year and 500-year flood zones.

Stormwater

Pursuant to CGS Section 22a-430b, DEEP retains final jurisdiction over stormwater management and administers permit programs to regulate stormwater pollution. DEEP regulations and guidelines set forth standards for erosion and sedimentation control, stormwater pollution control and best engineering practices.^[1] The DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit) requires implementation of a Stormwater Pollution Control Plan to prevent the movement of sediments off construction sites into nearby water bodies and to address the impacts of stormwater discharges from a project after construction is complete. The General Permit authorizes the discharge of stormwater at a site with a total disturbance of one or more acres of land area. A DEEP-issued General Permit for stormwater management is required prior to commencement of construction.

As of November 20, 2019, the Petitioner had not yet applied for a General Permit. The Petitioner notes that it must obtain this permit before the commencement of construction of the proposed project. According to the stormwater analysis, the post-development site conditions would mimic the pre-development site conditions. Specifically, the stormwater management for the proposed site has been designed such that the post-development peak discharges to the waters of the state for the 2, 25, 50, and 100-year storm events would be less than the pre-development peak discharges.

Erosion and sedimentation controls would be installed in accordance with the DEEP 2002 Guidelines for Erosion and Sediment Control and the project's erosion and sedimentation plan. The proposed project has been designed to comply with DEEP's recommended Appendix I Guidelines – Stormwater Management at Solar Array Construction Projects. A copy of Appendix I is attached to this staff report.

Stormwater from the proposed development would be managed in accordance with the *2004 Stormwater Quality Manual* and a Stormwater Pollution Control Plan.

Four stormwater infiltration flood control basins would be located between the fence and the western limits of disturbance. The Petitioner has shown additional riprap leaving the detention basins, with the intent to promote sheet flow; however, the Petitioner is amenable to revising this detail to show a level spreader. These grass lined basins and associated swales would be seeded with a New England Erosion/Restoration Mix for Dry Sites on the side slopes of the basins and swales.

Decommissioning

A Decommissioning Plan was included in the Petition and has provisions for project removal upon termination of service or end of useful life. Following the removal of project related equipment, the restoration plan will target the restoration of the site to pre-Project conditions.

Conclusion

The project is a customer-side distributed resource with a capacity of not more than sixty-five megawatts, meets air and water quality standards of the DEEP, and would not have a substantial adverse environmental effect. The proposed project will not produce air emissions, will not utilize water to produce electricity, was designed to minimize environmental impacts, and furthers the State's energy policy by developing and utilizing renewable energy resources and distributed energy resources.

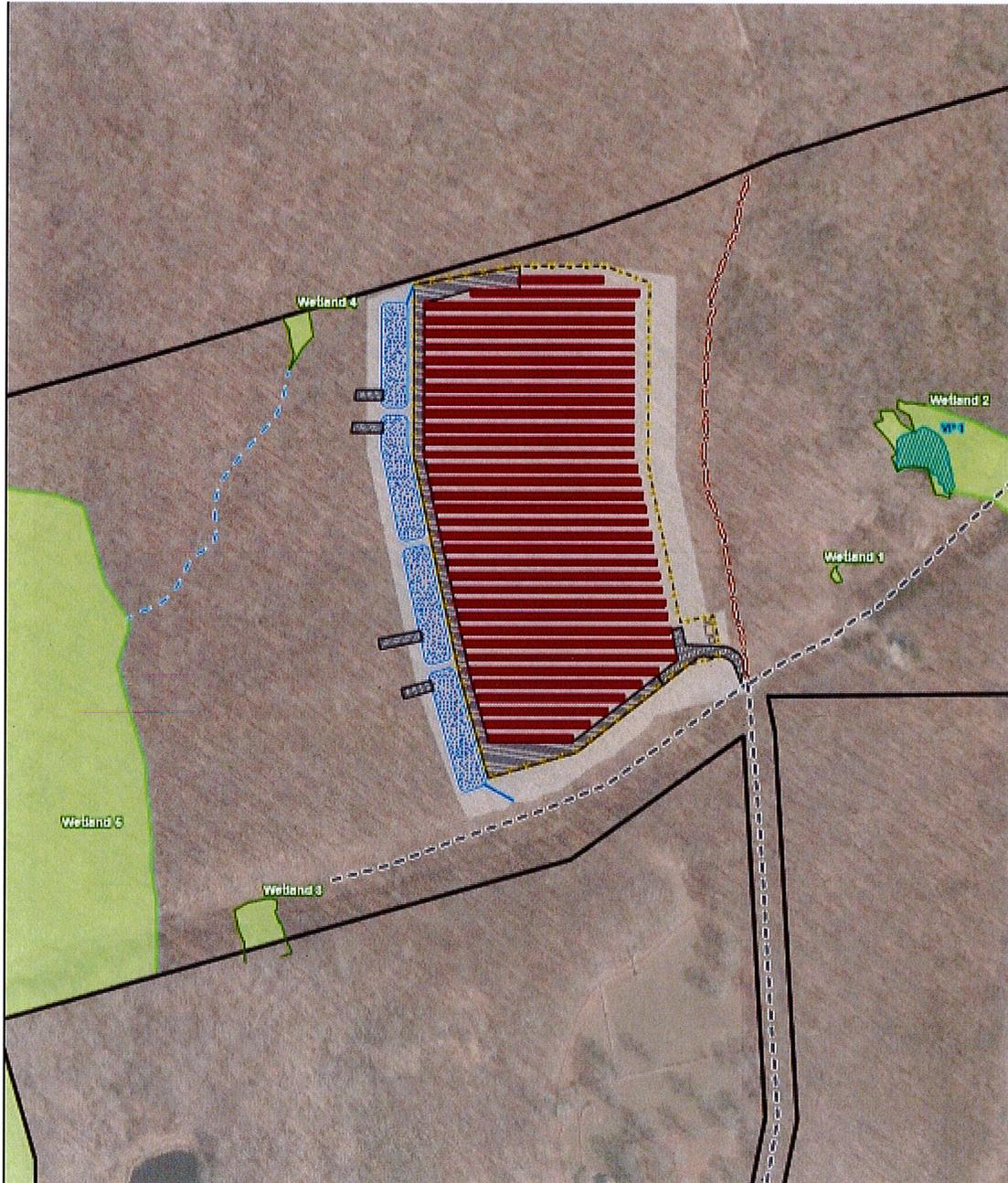
^[1] General Permit, DEEP-WPED-GP-015 (October 1, 2019), available at https://www.ct.gov/deep/lib/deep/permits_and_licenses/water_discharge_general_permits/storm_const_gp.pdf

Recommendations

Staff recommends inclusion of the following condition:

1. Approval of any minor project changes be delegated to Council Staff; and
2. Submission of a copy of DEEP General Permit prior to commencement of construction.

Proposed Site Layout



Legend

- | | | | |
|--------------------|-----------------------------|-------------------------|------------------|
| Site | Delineated Wetland Boundary | Perimeter Fence | Concrete Pad |
| Project Area | Approx. Wetland Boundary | Solar Panels | Gravel |
| Gravel Access Road | Wetland Area | Proposed Swale | Stormwater Basin |
| Dirt/Grass Trail | Vernal Pool | Existing Drainage Swale | |

Map Notes:
 Base Map Source: CTECO 2010 Aerial Photograph
 Map Scale: 1 inch = 250 feet
 Map Date: September 2010



**Figure 5
 Proposed Conditions Map**

Proposed Solar Facility
 20-1 Short Hills Road
 Old Lyme, CT

Cobb Road, LLC



Project Photo-simulation

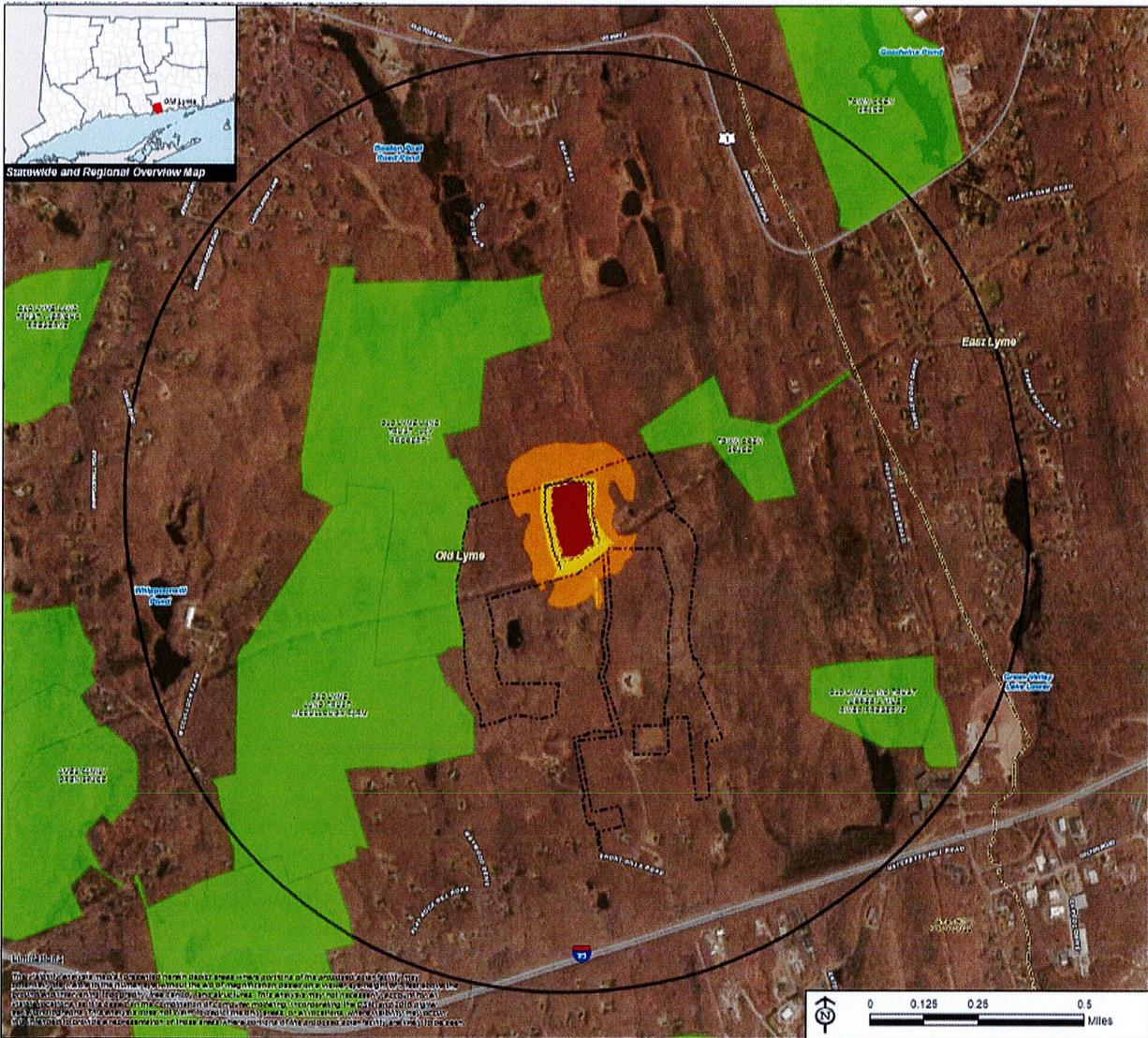


EXISTING



PROPOSED

Viewshed Map



- Legend**
- Site
 - Study Area (1-Mile Radius)
 - Proposed Facility**
 - Perimeter Fence
 - Solar Panels
 - Approx. Treatment Limit of Clearing
 - Proposed Year-Round Visibility (13.8 Acres)
 - Area of Potential Seasonal Visibility (28 Acres)
 - Municipal Boundary
 - Trail
 - State Highway
 - DEEP Goal Leachline
 - Municipal and Private Open Space Property
 - State Forest Park
 - Protected Open Space Property**
 - Federal
 - Land Trust
 - Municipal
 - Private
 - State



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

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Executive Director

October 28, 2019 - Corrected

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

RE: PETITION NO. 1385 – Cobb Road, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a solar photovoltaic electric generating facility at 20-1 Short Hills Road, Old Lyme, Connecticut.

Dear Ms. Bachman:

The Council on Environmental Quality (“the Council”) has reviewed the Petition for Declaratory Ruling noted above and offers the following comments for consideration by the Connecticut Siting Council.

1. State Listed Species

It is clear that APT conducted a biological survey of the property in question and consulted DEEP’s Natural Diversity Database (NDDB). The Petition correctly notes that the NDDB is a record only of **observed** occurrences of listed species. The Council wishes to make it clear, as it has with prior petitions that the NDDB is not a substitute for an on-site survey. In this case the petitioner leaves unanswered the question of whether the absence of listed species indicates that they were not present or that they were not looked for. An appropriate guideline for petitioners to use in summarizing the conclusions of their surveys is to document at least some of the “listed” species which were looked for in the habitats visited.

2. Core Forests and Shrublands and their Dependent Species

The Petitioner confirms that the proposed project will eliminate approximately eighteen acres of core forests and will leave the remaining 120 acres of the site in a mostly natural state. It also states that the site had been slated for residential development and perc tests had already been performed.

A primary motivation behind Connecticut General Statutes (CGS) 16-50k(a)(iii) was the preservation of those core forest habitats and the species dependent on them. The project in question proposes a capacity of 1.992 MW or only .008 MW (eight kilowatts) less than two megawatt threshold, above which a review by Department of Energy and Environmental Protection (DEEP) of the forest impact would be required. The intent of CGS 16-50k(a)(iii) was to protect core forests through consultation with DEEP.

The Council on Environmental Quality’s Annual Report, *Environmental Quality in Connecticut* report has charted the decline in Connecticut’s populations of mature-forest.

young-forest and shrubland bird populations since 2004. Earlier this month, the Journal Science published documentation of a 29 percent decline in North American bird populations in the last 50 years. The proposed location is within one of Connecticut's Important Bird Areas (IBA) and of state-wide conservation importance. As confirmed in the Petition, this site "represents a significant core forest block with respect to its importance for forest-interior birds, particularly when considering that a second large contiguous forest block lies immediately to the south of the Eversource ROW". In addition, the proposed site includes two priority habitats that support declining species that are of Greatest Conservation Need ("GCN") in the state, which was confirmed by avian surveys.

Consequently, the intention of the Petitioner to minimize the impacts to wildlife habitat post-construction, with the creation of a wildflower meadow, totaling ± 1.23 acres, by planting a habitat-specific blend of grasses and wildflowers up to the Project Area's limits of disturbance and to provide nesting habitat, as well as stopover habitat for migratory birds and pollinators is commendable. Given the dire state of avian populations, the habitat preservation techniques described in the petition should be expanded to the maximum extent practicable on the site, and at all solar energy sitings. Because this specific proposal comes within only eight watts of the threshold at which the Commissioner of DEEP is required to make a determination "that such project will not materially affect the status of such land as core forest", every effort should be made to preserve as much forest and associated habitats as is possible.

3. Habitat Considerations

The proposed facility and access road would impact the critical terrestrial habitat for species that use the identified vernal pool located east of the proposed site. As confirmed in the Petition, "intact forest represents the highest value habitat" within both the vernal pool envelope and the critical terrestrial habitat "to support breeding opportunities for the various obligate vernal pool indicator species that rely on forested habitat (e.g., wood frog and spotted salamander)." The Council recommends that the Siting Council request design modification that could eliminate or reduce negative impacts on that area of the site.

4. Visibility Concerns

The petition states the screening will be "unobtrusive visually to the surrounding area and residences". The petition also states "the surrounding area of the Site is in the process of being developed for residential sub-divisions." An appropriate question is whether the screening for the site will be adequate from the locations of the yet-to-be developed residences.

Thank you for your consideration of these comments. Please do not hesitate to contact the Council if you have any questions.

Sincerely,



Peter Hearn,
Executive Director



79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Empl

November 6, 2019

Connecticut Siting Council
10 Franklin Square
New Britain, Connecticut 06051

RE: 1.95 MW Solar Photovoltaic Facility
Cobb Rd. LLC
Old Lyme, CT
Petition No. 1385

Dear Members of the Siting Council:

Staff of this department have reviewed the above-referenced petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need will be required for the construction of the proposed photovoltaic generating facility off Short Hills Road in Old Lyme. This project was selected by Eversource and awarded a 15-year contract to participate in the Low Emissions Renewable Energy Credit program. The following comments are offered to the Council for your consideration.

Site Description

The site is a back lot located at 20-1 Short Hills Road in Old Lyme. An existing gravel road off Great Oaks Road will be used to access the site with no improvements required to utilize the road. The project will develop 12.72 acres out of the 120.23 acres. The parcel is primarily woodland with approximately 5 acres utilized for the Eversource Right of Way, which is maintained as dirt road with low shrub vegetation. The site has no jurisdictional wetlands within the development. There is a gentle slope from east to west, eventually leading to a perennial watercourse and associated wetlands on the western boundary line of the parcel. The development is situated in the center of the parcel, with approximately 1000 feet from the development to the property line on each side. The Right of Way is the southern boundary of the solar field.

A field walk was conducted on October 29, 2019. The location of wetland 4 was noted and is a depression in the forested area, with scattered trees and no ground vegetation. The area where the proposed four infiltration basins was noted, on relatively flat ground over 900 feet from wetland system 5.

Activities

Cobb Road LLC, the Petitioner, proposes to install fixed tilt solar photovoltaic systems composed of solar modules, inverters, access gravel roads, perimeter fencing, and stormwater management features. The project requires tree removal, grubbing, minor grading for access roads within the

site and the installation of solar panels. Stormwater infrastructure proposed for the site includes the installation of four infiltration basins with each with riprap overflow weir and level spreader.

Water Quality

The location of the site within the 120-acre parcel avoids wetlands and watercourse impacts, and eliminates water quality concerns to the unnamed stream and associated wetland system by being approximately 800- 900 feet away from the wetland (identified as wetland 5). It is typical in land use practice to consider 100 feet as the minimum buffer desired from a wetland or watercourse to site disturbance. This number could be increased depending on the slope or sensitivity of the wetland. The Petitioner provided a 100 ft. buffer to the closest wetland, identified as wetland 4, described as a forested shallow depression. This wetland is located on a gentle slope in a wooded area with little understory vegetation.

Precipitation hitting the panels will drain from them and flow toward the infiltration basins in each row, as opposed to flowing under the rows of panels, which has been typical practice. This concentrated flow between rows may cause rills and gullies to form in between rows of panels. These rows may be mowed once or twice a year, and during those times, soils will be compacted. Vegetation in each row will need to be well established and maintained regularly. DEEP recommends that the Siting Council discuss how the applicant will prevent soil erosion between rows. In addition, the applicant may need to address how runoff volume and velocity will be controlled during winter months when the ground is frozen. If the site was considered a fully impervious surface, the infiltration basins and proposed catchment areas associated with the individual drainage areas may not adequately address water quantity and quality. Precipitation from the site that has not infiltrated, would eventually flow to woodlands on the west side of the development. The Design and Management Plan could address how often the infiltration basins will be inspected and maintained, along with the possibility that rows between panels may require annual tilling and revegetation.

Construction Stormwater Management

Construction-related land disturbances of 0.5 acres or larger are regulated in Connecticut pursuant to the Connecticut Soil Erosion and Sediment Control Act under Sections 22a-325 to 22a-329, inclusive, of the Connecticut General Statutes (CGS). Construction-related land disturbances of one (1) acre or larger are also regulated under CGS Section 22a-430 and under Section 402(p) of the federal Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) program. Prior to the start of such regulated activities, authorization is required from local authorities and, for larger projects, DEEP. Construction projects involving five (5) or more acres of land disturbance require an individual NPDES discharge permit from the DEEP, or may be eligible to register for coverage under DEEP's NPDES General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (general permit).

Based upon the problems encountered in regards to large areas of land disturbance at solar farm construction projects, DEEP has provided a guidance document dated September 2017 (attached).

The Petition recognizes the need to register for DEEP's general permit to address the stormwater discharges associated with the proposed project in Appendix D, Stormwater Management Report. The critical consideration is being able to maintain site stabilization during construction. The sequence of construction, soil, and erosion control measures will be analyzed by DEEP during the review for the General Permit. A Stormwater Pollution Control Plan will be submitted as required by the General Permit.

In the Sedimentation and Erosion Control Plan Notes, EC-3, modifications should be made to the notes that remove mention of the municipality as an entity to approve stabilization of the site since the Town of Old Lyme is not permitting this construction project. Other notes should be modified to fit this project, such as the mention of turf establishment. DEEP acknowledges that often erosion control notes are standardized to fit a variety of projects, but would like the notes to reflect the solar project.

Core Forest Assessment

An overview of the project area shows that it will develop a portion of forested land along the edge of the Right of Way. As stated in the petition, clearing for the project will remove 12 acres of forest (both interior forest and edge forest) from the overall forested area, estimated to be approximately 700 acres. The site consists of primarily deciduous forest. The forest is very open, mostly devoid of understory. Tree stands are primarily young trees with a few larger diameter trees interspersed. No wetlands or watercourses were located within the 12 acres being considered for development.

This parcel is not identified on DEEP's Habitat Impact Map, which was developed by DEEP Wildlife Division to assist DEEP in screening if a project may have a material impact on core forest. The Habitat Impact Map is not meant to indicate areas that could be considered core forest, but considers and weighs several factors including wetlands, habitat types, and species of concern, to represent areas that could be materially affected if a core forest was disturbed. The 120-acre parcel has evidence of groundwater testing for potential septic systems observed on the October site walk. A residential subdivision is currently under construction adjacent to the site. The petition states that the landowner will keep the remaining acreage after solar development untouched by further residential development. Public Act 17-218, established July 1, 2017, is an Act concerning development of core forest and agricultural land. This site is under the 2 MW threshold and does not require a letter from DEEP Forestry for the project to proceed as a Petition in front of the Siting Council. Regardless of the energy capacity of the project, the environmental impacts are reviewed by the Siting Council.

Wildlife & Habitat Assessment

The site is not within a Natural Diversity Database Area (NDDDB). This database, maintained by DEEP Wildlife Division, indicates areas that may have had occurrences of one or more state listed plants or animals. Not all areas in Connecticut will be represented in the database unless previous surveys were documented. The Petitioner hired a company to conduct an avian study and wetland study prior to submitting to the Siting Council. The vernal pool in wetland 2 was noted to contain two common species: spotted salamander egg masses and wood frog egg masses, indicating breeding productivity. The vernal pool is within the man-made pond in wetland 2, which is several hundred feet to the east of the project and not within the drainage area of the site. Water runoff from the site will drain away from this area to the west side of the project.

The mid-successional forest consists of even-aged trees with little understory, which suggests a modest habitat for wildlife. The Petitioner will follow the protocol to minimize impact to wildlife within the project area during construction outlined in section 6.9.2 of the petition. These best management practices should be conveyed to the construction crew and listed on the site plan. Some practices include tree removal time of year restrictions, removing animals, whether state listed or not, out of the construction area and out of harm's way, removing silt fencing and any other restrictive barriers when site is established, and reporting any state listed species to DEEP.

The Petition states that a 6-inch gap from the ground in the 7-foot-high fencing will be included in the design to allow small animals to move throughout the project area and surrounding forest.

Decommissioning Plan

By past practice, the Siting council has required the development and submission of decommissioning plans for solar farms. Prior to decommissioning, the petitioner should consult with DEEP on any permits that may be required during land disturbance operations.

Respectfully Yours,

Linda Brunza, Environmental Analyst

cc: Commissioner Katie Dykes



Stormwater Management at Solar Farm Construction Projects September 8, 2017

Solar farms are on-the-ground installations of arrays of photovoltaic cell panels, supporting structures and related equipment for the production of electricity. As with other types of construction projects, the construction of solar farms can involve land clearing, grading, excavation, trenching, dewatering and similar activities that create land disturbances which potentially result in soil erosion and sediment discharges polluting wetlands, streams and other surface waters. Construction-related land disturbances of 0.5 acres or larger are regulated in Connecticut pursuant to the Connecticut Soil Erosion and Sediment Control Act under Sections 22a-325 to 22a-329, inclusive, of the Connecticut General Statutes ("CGS"). Construction-related land disturbances of one (1) acre or larger are also regulated under CGS Section 22a-430 and under Section 402(p) of the federal Clean Water Act and the National Pollutant Discharge Elimination System ("NPDES") program. Prior to the start of such regulated activities, authorization is required from local authorities and, for larger projects, the Connecticut Department of Energy and Environmental Protection ("Department"). Construction projects involving five (5) or more acres of land disturbance require an individual NPDES discharge permit from the Department, or may be eligible to register for coverage under the Department's NPDES General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (general permit).

The Department has encountered repeated problems associated with solar farm construction projects covered under the general permit, from the registration process through construction activities. Although in no way an exhaustive list, the following are common problems associated with solar farm general permit registration applications and ways to address such problems:

- Applicants have been submitting registration applications that lack the requisite information or the requirements necessary for authorization under the general permit. The Department requires a complete and sufficient application when a registration application is filed, and may reject any registration application it deems to be incomplete or insufficient.
- Applicants are not adhering to the sixty (60) day/ninety (90) day time frame for Department review as required by Section 3(c) of the general permit. While the Department has on occasion shortened the review timeframe, Applicants are expected to allocate no less than the requisite time frame for the registration application review process and must plan accordingly.
- Registration applications for solar farm projects often fail to identify the project's contractor and sub-contractors. Section 5(b)(1)(viii) of the general permit mandates that this information be included in the registration application.

- Applicants have been repackaging the Siting Council submittal, which is not acceptable. Section 3(c)(2)(D) of the general permit mandates that the application submittal include only materials required to support the Stormwater Pollution Control Plan (“SWPCP”). This information must be up-to-date and accurate. Any superfluous information delays the registration application review process.
- SWPCPs for solar farm projects are often lacking sufficient detail and information. An approvable SWPCP shall include, but not be limited to, the location of all erosion, sediment and stormwater control measures including detailed design cut sheets with supporting calculations, construction means and methods, project phasing (i.e., site planning, pre-construction, construction, and post-construction stabilization, etc.), construction sequencing and a construction schedule.
- The Applicant’s design professional must be well-versed in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control (“E&S Guidelines”), specifically the techniques found in Chapter 4, Large Construction Sites, the 2004 Connecticut Stormwater Quality Manual, as well as *current* best management practices (BMPs) recognized by the International Erosion Control Association (IECA), provided such BMPs are equal to or better than the E&S Guidelines.
- From the Department’s perspective, an approvable SWPCP will include methods for avoiding compaction of soils, disconnection and reduction of runoff associated with solar panel arrays, avoidance of concentration of stormwater, and other measures necessary to maintain or improve pre-construction hydrologic conditions.
- Applicants need to follow the SWPCP review checklist when preparing the SWPCP, giving specific attention to post-construction stormwater controls and the development of a detailed long-term maintenance plan to ensure that the SWPCP meets the terms and conditions of the general permit.

Subsequent to authorization for coverage under the general permit, the Registrant is responsible for ensuring compliance with all terms and conditions of the general permit and the approved SWPCP once construction has been initiated. However, for solar farm projects, Registrants often fail to comply with the terms and conditions of the general permit, including the approved SWPCP. In particular, Department staff have observed the following issues that a routine inspection protocol and proper oversight, as required under the general permit, would have prevented, including but not limited to:

- pre-construction site planning and management deficiencies (e.g., existing vegetation, scheduling, training, phasing/sequencing, tree protection, etc.)
- ineffective placement, maintenance, and/or repair of administrative/procedural, vegetative, and structural BMPs (e.g., erosion, sediment and stormwater runoff controls, good housekeeping, materials management, and training)
- lack of thorough inspections
- ineffective or untimely corrective action
- ineffective stabilization practices
- ineffective permanent post-construction controls (i.e., store, treat and direct stormwater quality and quantity to pre-construction levels)

Such issues at solar farm construction projects raise concerns, since such projects often create areas of land disruption larger than the generally accepted BMPs of five (5) acres anticipated under the general permit. As a result, any applicant seeking coverage under the general permit

for a solar farm construction project should take care to address the issues noted above. While by no means exclusive, some recommendations that should be incorporated into a SWPCP to address these issues include:

- Ensuring that only a Professional Engineer and/or Landscape Architect, as defined in Section 2 of the general permit, who meets the qualifications described in Section 5(b)(4)(A)(ii) and who has been approved in writing by the Commissioner, serve as the Commissioner's agent to inspect the site and also serve as the qualified inspector for the purposes of Section 5(b)(4) of the general permit ("authorized professional"). Such authorized professional must remain in good standing with the Connecticut Department of Consumer Protection and be technically and ethically qualified to inspect the site and be retained for the duration of the construction project until the Notice of Termination acceptable to the Commissioner has been filed as described below.
- Ensuring that the authorized professional prepare a proposed inspection checklist to assure the construction project is being conducted in compliance with the terms and conditions of the general permit, and the approved SWPCP is implemented in accordance with the general permit. The inspection checklist shall comply with Section 5(b)(4)(B)(iii) of the general permit, and include a space for the authorized professional's signature and professional stamp.
- Ensuring that the credentials for the authorized professional proposed by the Applicant and the proposed inspection checklist prepared by such authorized professional be submitted for the review and approval of the Commissioner and be included with the registration application for the general permit. No other professional may serve as the authorized professional without the prior submittal of relevant credentials and inspection checklist for the Commissioner's review and written approval.
- Ensuring that the authorized professional personally perform all pre-construction, construction, and post-construction site inspections; perform inspections at the end of any storm event whether or not such storm generates a discharge; and prepare and submit all inspection reports including the supporting inspection checklists in compliance with Sections 5(b)(4)(A) and 5(b)(4)(B) of the general permit.
- Ensuring that the authorized professional report any violations of the terms and conditions of the general permit or the SWPCP to the Commissioner's designee within two (2) hours of becoming aware of such violation, or at the start of the next business day of becoming aware of such violation outside normal business hours and shall, within five (5) days, prepare and submit a signed and stamped written report, which documents the cause of the violation, duration including dates and times, and corrective action taken or planned to prevent future occurrences.
- Ensuring that if circumstances necessitate a revision to the SWPCP, the authorized professional works with the Permittee's design professional to ensure compliance with the terms and conditions of the general permit, and any such change to the SWPCP shall be submitted for the review and written approval of the Commissioner.
- Ensure that the authorized professional reviews all stormwater monitoring reports to evaluate the effectiveness of the SWPCP and to document any adverse impacts that any stormwater controls on the construction site or discharges from the construction site may have on wetlands, streams, any other receiving waterbodies. Such evaluation shall be documented in the inspection reports and inspection checklists performed pursuant to Section 5(b)(4) of the general permit.

- Ensuring that, in the event the authorized professional identifies a violation of the terms and conditions of the general permit, the SWPCP, or otherwise identifies adverse impacts on wetlands, streams or any other receiving waterbodies, that construction activity shall immediately cease and the site stabilized until such violation or adverse impacts have been corrected.
- Ensuring that reporting and record-keeping of all inspection checklists and inspection reports comply with the requirements of Section 5(d) of the general permit, except that a copy shall also be submitted electronically to the Department within ten (10) days from the date such inspection was performed.
- Ensuring that all inspection checklists and inspection reports comply with the requirements for Certification of Documents in Section 5(i) of the general permit, including the requirement that such checklists and reports shall also be prepared, stamped and signed by the authorized professional.
- After completion of a construction project, ensuring that a Notice of Termination is filed in compliance with Section 6 of the general permit, including the requirement that such Notice of Termination be stamped and signed by the authorized professional certifying that such authorized professional has personally inspected and verified that the site has been stabilized following the first full growing season (i.e., April through October) in the year following completion of the construction project.
- Ensuring that any transfer of the registration comply with the requirements of Section 5(m) of the general permit.

These recommendations are by no means intended to be exclusive. To help address the issues noted above, the Commissioner will also be considering the posting of a performance bond or other security, in accordance with Section 22a-6(a)(7) of the Connecticut General Statutes, to assure the solar farm construction project maintains compliance with the terms and conditions of the general permit and the SWPCP.

APPENDIX 1
Stormwater Management at
Solar Array Construction Projects

In addition to the terms and conditions of the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (general permit), registrations for construction of Solar Array (as that term is defined in Section 2 of the general permit) shall adhere to the following conditions:

Design and construction requirements for solar arrays

- (1) The entire solar array including, but not limited to, solar panels, roadways, gravel surfaces and transformer pads, shall be considered effective impervious cover for the purposes of calculating Water Quality Volume, unless the following design conditions have been met:
 - (a) The vegetated area receiving runoff between rows of solar panels (see Figures 1 and 2) is equal to or greater than the average width of the row of solar panels draining to the vegetated area.
 - (b) Site conditions shall be maintained such that the runoff remains as sheet flow across the entire site.
 - For slopes less than 5%, appropriate vegetation shall be established as indicated in Figure 1.
 - For slopes greater than 5% and less than 10%, practices such as, but not limited to, level spreaders, terraces or berms to ensure long term sheet flow conditions as indicated in Figure 2.
 - Installations on slopes greater than 10% and less than 15% will require an engineered plan that ensures adequate treatment and the safe and non-erosive conveyance of runoff to the property line or downstream stormwater management practice.
 - Under no circumstances may solar panels be installed on slopes greater than 15%.
 - (c) For slopes greater than or equal to 8%, erosion control blankets or stump grindings or erosion control mix mulch or hydroseed with tackifier must be applied within 72 hours of final grading, or when a rainfall of 0.5 inches or greater is predicted within 24 hours, whichever time period is less.
 - (d) The solar panels are constructed in such a manner as to allow the growth of vegetation beneath and between the panels.
 - (e) A fifty (50) foot buffer shall be maintained between all parts of the solar array and any adjacent wetlands. The buffer shall consist of undisturbed existing vegetation or native shrub plantings.
- (2) The lowest vertical clearance of the solar panels above the ground should not be greater than ten (10) feet. They shall, however, be at an adequate height to promote vegetative growth beneath the panels. If the lowest vertical clearance of the solar panels above the ground is greater than ten (10) feet, control measures will be necessary to prevent/control erosion and scour along the drip line or otherwise provide energy dissipation.
- (3) The registrant shall include staff from the appropriate District in the pre-construction meeting pursuant to Section 3(b)(15) prior to commencement of any construction activity on the site. The date of such meeting and a report summarizing the meeting shall be included in the registrant's SWPUP (Plan).
- (4) The registrant shall ensure that a qualified professional engineer shall serve as the qualified inspector for the purposes of the routine inspections in Section 5(b)(4) of the general permit ("authorized professional"). Unless otherwise approved in writing by the Commissioner, such qualified professional shall be retained for the duration of the construction project until the Notice of Termination acceptable to the Commissioner has been filed as described below. The registrant shall ensure that the credentials for the qualified professional proposed by the

registrant and the proposed inspection checklist prepared by such qualified professional are submitted for the review and approval of the Commissioner and are included with the registration for the general permit. No other professional may serve as the qualified professional without the prior submittal of relevant credentials and inspection checklist for the Commissioner's review and written approval.

- (5) The registrant must ensure that reporting and record-keeping of all inspection checklists and inspection reports complies with the requirements of Section 5(a) of the general permit, except that a copy shall also be submitted electronically to the Department email (DEEP.stormwaterstaff@ct.gov) within three (3) days from the date such inspection was performed.
- (6) The District shall inspect the site at the completion of each phase of construction to assess compliance the general permit and the Plan, including the phasing and sequencing of the project. The permittee shall notify the appropriate District when each phase of construction is complete. In addition, the District shall inspect the site at least every six (6) weeks or more frequently, if necessary, for general permit and Plan compliance during construction. The District shall also conduct the Post-Construction Inspection and Final Stabilization Inspection pursuant to Section 6(a) of the general permit.
- (7) The registrant must ensure, after completion of a construction project, that a Notice of Termination is filed in compliance with Section 6 of the general permit, including the requirement that such Notice of Termination be stamped and signed by a District representative certifying that such District representative has personally conducted a Post-Construction Inspection and Final Stabilization Inspection in accordance with Section 6(a) of this permit and verified compliance with the requirements of that section.
- (8) The registrant, in accordance with Section 22a-6(a)(7) of the Connecticut General Statutes, shall secure a letter of credit to ensure the solar farm construction project maintains compliance with the terms and conditions of the general permit and the Plan. Such letter of credit shall be for an amount sufficient to ensure that, upon the potential failure of the site to meet the construction and post-construction requirements of the general permit, the Commissioner would have adequate funds to engage appropriate design professionals and contractors to stabilize the site, repair on-site and off-site damage and ensure the long term stability of the site from future erosion. The registrant shall provide documentation of time, materials, contract and bid preparation, consultant and contractor fees, contingencies and other necessary expenditures to substantiate the amount of the letter of credit. The registrant must use the letter of credit template attached to this appendix. The registrant must provide proof that the bank is regulated under state or federal authority.

Note: Additional design guidance for meeting these requirements for solar panel installations can be found on the DEEP stormwater webpage at www.ct.gov/deep/stormwater

Design requirements for post-construction stormwater management measures for solar arrays.

- (1) Orientation of panels shall be considered with respect to drainage pattern (i.e. row parallel to flow direction results in higher runoff)
- (2) Hydrologic analysis must evaluate 2, 25, 50 and 100-year storm pre-and post-construction stormwater flows
- (3) Site specific soil mapping shall be conducted to confirm soil types for hydrologic analyses.
- (4) Must perform hydrologic analysis based on slope gradient, surveyed soil type (adjusted per paragraph (5), below), infiltration rate, length of slope, occurrence of bedrock, change in drainage patterns (see also page 23 at https://www.ct.gov/deep/lib/deep/Permits_and_Licenses/Land_Use_Permits/Inland_Water_Permits/IWRD_inst.pdf).
- (5) The hydrologic analyses necessary to confirm the infiltrative capacity of any stormwater management measures shall reflect a reduction of the Hydrologic Soil Group present on-site by one (1) step (e.g. soils of HSG B shall be considered HSG C) to account for the compaction of soils that results from extensive machinery traffic over the course of the construction of the array.

- (6) Hydrologic analysis for engineered stormwater management system must demonstrate no net increase in peak flows or cause adverse impacts to downstream properties

Figure 1
Solar Panel Installation with Slopes $\leq 5\%$

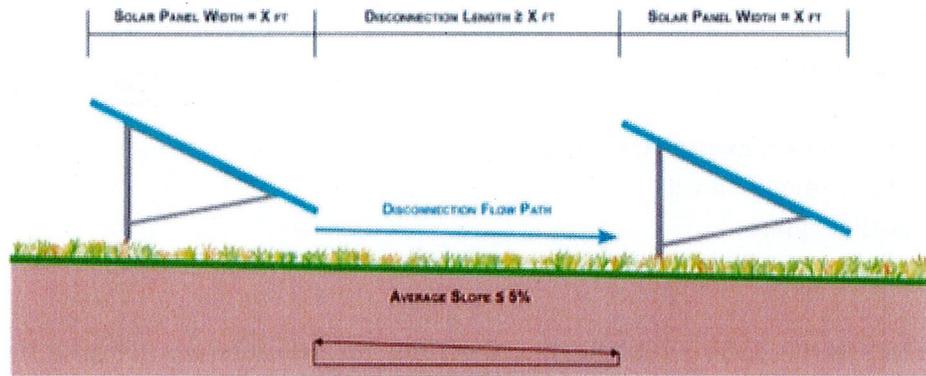
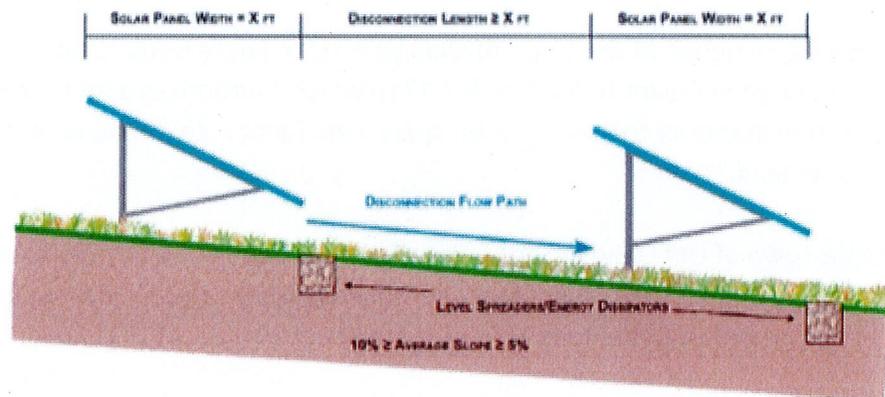
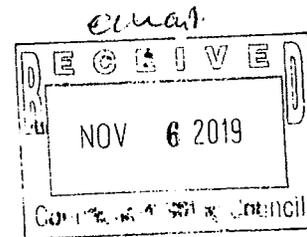


Figure 2
Solar Panel Installation with Slopes $> 5\%$ and $\leq 10\%$



Source: Maryland Department of the Environment: Stormwater Design Guidance – Solar Panel Installations



SENT VIA E-MAIL

November 6, 2019

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

RE: PETITION NO. 1385 – Cobb Road, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a solar photovoltaic electric generating facility at 20-1 Short Hills Road, Old Lyme, Connecticut.

Dear Ms. Bachman:

We are writing on behalf of the Town of Old Lyme Open Space Commission. This municipal board was created pursuant to § C.G.S. § 7-131p which “authorizes a municipality to establish a land acquisition authority to acquire open space land [and] ... to maintain, protect, or otherwise conserve such land.”

As such, the Town of Old Lyme in September, 2019 paid \$600,000 for approximately 300 acres of core forest and watershed land (“McCulloch Family Open Space”) located in very close vicinity to the proposed Cobb Road LLC solar project at 20-1 Short Hills Road, Old Lyme.

A major reason the Commission pursued acquisition of this property was its connectivity to the Old Lyme Land Trust’s 185 acre Lay Preserve. The Commission was partly guided in this decision by the Connecticut Department of Energy and Environmental Protection’s (“DEEP”) “Green Plan” which states:

“Conservation lands increase greatly in value when they are interconnected with other conservation lands. One parcel of land lost to development at a critical junction can diminish the conservation value of surrounding lands.”

The combined 485 acres serve as a sizable greenway to protect and preserve wetlands, streams, vernal pools and aquifers and as an important wildlife corridor.

We would further note that in the vicinity of 20-1 Short Hills Road, the Town of Old Lyme owns the 30 acre Upper Three Mile River Open Space; the town holds a conservation easement within the Great Oaks subdivision; the Old Lyme Land Trust owns the 157 acre Upper Three Mile River Preserve; and the town Open Space Commission is discussing potential acquisitions

that would adjoin the proposed project site. Two other family parcels of the original McCulloch Farm – Holland and Vasiloff – remain in private hands, abut the Lay Preserve and are subject to strict Nature Conservancy easements preserving their pristine state.

In sum, there are numerous protected properties with significant ecological value that **directly abut** or are in **close vicinity** to 20-1 Short Hills Road, some of which were acquired with Connecticut State Government financial support. A Town of Old Lyme GIS map is attached to illustrate this adjacency.

The Town of Old Lyme Open Space Commission does not oppose the solar project, but it does have very serious reservations that we believe the Siting Council must address before granting approval.

Public Notice

The Petition states “The Town of Old Lyme supports development of the Project in this location.”

We are frankly surprised at this assertion, given the apparent lack of communication and notice for this project. To the best of our knowledge, the First Selectwoman was contacted twice; the land use department informed us they have only recently received information; the Town Open Space Commission, despite its standing as illustrated above, has never been contacted, and the public can hardly “support” a project essentially unknown to it.

In contrast, when the Town Open Space Commission purchased the McCulloch Family Open Space, presentations were made to the Board of Selectmen, the Planning Commission, the Conservation Commission, the Board of Finance, and at a Town Meeting.

Core Forest

As noted, the Town of Old Lyme and the Old Lyme Land Trust have made significant investments of limited resources to acquire and protect core forest land, influenced by DEEP’s strong advocacy of such conservation.

While “green” energy is important, this project seems in conflict to DEEP’s core forest “green” goal considering that 18 acres of wooded land will be lost. DEEP, in their “Green Plan” writes “One of the greatest benefits provided by forests is their ability to sequester carbon... [which will] reduce the state’s greenhouse gas emissions.” The mature woodland would provide that benefit for another 150 to 200 years. Alternate sites, such as the brownfield across Four Mile River Road at the transfer station, also near an Eversource transmission line, would not require trade-offs in “green goals.”

Greenways, as noted, are important wildlife corridors, and the construction of a seven-foot chain link fence also seems in conflict with Connecticut's Comprehensive Wildlife Conservation Strategy, now known as the Wildlife Action Plan.

The State of Connecticut, Council on Environmental Quality wrote in their corrected October 28, 2019 letter that "The Petitioner states that the site had been slated for residential development and perc tests performed."

The property in question was part of a subdivision titled "The Oaks" Land n/f George King II, Howard S. Tooker to be acquired by Short Hill Properties, LLC. Phase I, Great Oaks Road, was subdivided by Short Hills Properties, LLC. Although tests were performed on the remaining Tooker property, a subdivision plan was never recorded and any approved areas not developed would have expired.

Soil Erosion and Sediment Control

The potential for harmful or destructive storm water runoff from the solar site towards the Lay Preserve and specifically impacting its adjoining McCulloch Family Open Space, and other properties, is of utmost concern. There are four wetlands and a vernal pool in abutting and nearby properties that may be adversely affected.

The McCulloch Family Open Space, in particular, protects a watershed of the Black Hall River which, in turn, is a tributary of the Connecticut River. The language contained in The Nature Conservancy's conservation easement on the McCulloch property (attached) clearly illustrates the significant ecological value of this land (and attests to the great care to which this neighboring property has been and will be subject).

"The protected property is in the watershed of and is contiguous to the Silvio O. Conte National Fish & Wildlife Refuge and the protection of the watershed of the Connecticut River and natural wildlife habitat through private conservation action is a stated goal of the Refuge "Action Plan" and the Protected Property is located within the watershed of a tidal wetland declared to be a wetland of international importance under the RAMSAR treaty..."

The Petitioners cite as their soil erosion and management plan The 2002 Connecticut Guidelines for Soil Erosion and Sediment Control (DEP Bulletin 34). We would note that DEEP is this year upgrading their standards for run-off, and that plan may soon be out of date.

The State of Connecticut, Council on Environmental Quality also noted in the above cited correspondence that "The proposed facility and access road would impact the critical terrestrial habitat for species that use the identified vernal pool located east of the proposed site. As confirmed in the Petition, 'intact forest represents the highest value habitat' within both the

vernal pool envelope and the critical terrestrial habitat 'to support breeding opportunities for the various obligate vernal pool indicator species that rely on forested habitat (e.g., wood frog and spotted salamander).' We agree with their recommendation that the Siting Council carefully consider such potential negative impacts.

If approved, the Petitioner stated post-construction that all disturbed areas will be loamed and hydro-seeded, and a wildflower meadow planted in transition zones. We would note that there have been frequent summer dry spells in southeastern Connecticut in recent years, and if seeding is undertaken during such a spell without watering, it is likely to fail. Provisions should accordingly be made for re-seeding as needed.

The silt run-off issues generated by a similar project in our neighboring town of East Lyme, CT amplify public concern about the potential impacts of this project.

Post-Development Monitoring

While walking the site with project representatives, a discussion ensued about monitoring of the site to assure that detention ponds would continue to function as planned over the 25-year project life and that no other issues arose. We were taken aback by statements that there would only be "occasional" monitoring of infiltration basins and outflow, rather than any scheduled or regular site inspection. Such a response fosters a concern over project neglect in out years.

We were further taken aback when we inquired about reporting possible environmental issues discovered by abutting or nearby property owners in the future. No project representative would offer or provide **any** contact information for reporting of such issues, again fostering a concern over out year maintenance/repair.

In addition, we have serious concerns about the project's letter of credit. Oral assurances have been made, but will this be formalized to fund potentially future environmental site repairs? The Site Plan states only that "A bond or letter may be required to be posted with the governing authority for the erosion control installation and maintenance."

Emergency Access

When the Town of Old Lyme Open Space Commission acquired the McCulloch Family Open Space, documents were created and recorded in Town Hall so emergency responders might access a private road if necessary. It appears that the Petitioners have not made such emergency response plans for the project site. We were told during the site walk only that the property owner "talked" to a fire official.

In sum, when the Town of Old Lyme Open Space Commission was acquiring the McCulloch Family Open Space, it was told on multiple occasions that Roger Tory Peterson, the town's

world famous ornithologist, believed the property enjoyed exceptional avian diversity. The property has similarly been described as one of the town's jewels, protected since the Great Depression by the family's foresight and commitment to conservation.

The Open Space Commission respects the rights of property owners. But it also has an obligation to all town residents to protect precious natural resources, such as the McCulloch Open Space.

This project may prove a worthwhile addition to the area's generation of clean energy. But it seems imperative that, given the surrounding truly special land, every effort be made to minimize environmental risk.

The State Council on Environmental Quality wrote that the project "proposes a capacity of 1.992 MW or only .008 MW (eight kilowatts) less than the two megawatt threshold above which a review by DEEP of the forest impact would be required."

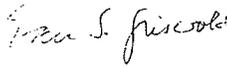
Given that very narrow miss for review, we urge the Siting Council to either call for a DEEP review or to require a fair and independent environmental analysis of the Cobb Road, LLC petition, so that the concerns raised in this letter and by other organizations receive the expert consideration they deserve.

We would also strongly recommend that the Siting Council hold a public hearing on this petition so that the "town's support" of the project be verified. News stories of solar farms catastrophically failing to contain storm runoff engender alarm, a worry that may only be worsened by the potential for more severe storms over the next 25 years due to climate change. A public hearing would be an opportunity for Cobb Road, LLC and their representatives to reassure residents of their commitment to sound environmental practices over the life of this project.

Respectfully,



William Dunbar
Co-Chair, Commission



Evan Griswold
Member, Open Space Commission

CC: First Selectwoman Bonnie Reemsnyder
State Senator Paul Formica
State Representative Devin Carney

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DEED OF CONSERVATION RESTRICTION

THIS GRANT DEED OF CONSERVATION RESTRICTION is made by DAVID SEARS McCULLOCH and JEAN ADAIR McCULLOCH, residents of Old Lyme, Connecticut, who with their successors in title to all or any portion of the Property, as hereinafter defined, are herein referred to as "Grantor", in favor of the THE NATURE CONSERVANCY OF CONNECTICUT, INC. (hereinafter referred to as "Grantee"), a non-profit charitable corporation incorporated under the laws of the State of Connecticut and in good standing and qualified to do business in the State of Connecticut as with a local address at 55 High Street, Middletown, Connecticut 06457.

PREAMBLE

WHEREAS, Grantor is the owner in fee simple of those parcels of real property on the easterly side of Whippoorwill Road and the northerly side of Flat Rock Hill Road and U.S. Interstate 95, a/k/a Blue Star Highway, in the Town of Old Lyme, Connecticut, totaling 310 acres, more or less, more particularly shown on Sheet 1, Sheet 2, Sheet 3, Sheet 4, Sheet 5, Sheet 6, and Sheet 8 on a plan entitled: "McCULLOCH FARM WHIPPOORWILL ROAD OLD LYME, CT SCALE 1"=100' DATE AUGUST 1, 1997 REVISIONS: DATE 12/9/99 CONSERVATION RESTRICTION AREA ADDED" RICHARD W. GATES LAND SURVEYOR 81 MAIN STREET, CENTERBROOK, CT (hereinafter referred to as the "Plan") and being more particularly described as Parcels 1 through 4 on Exhibit 1, attached hereto and incorporated herein by reference (hereinafter referred as the "Protected Property"); and

WHEREAS, the Seller's Protected Property is a significant area of the upper watershed of the Black Hall River; and

WHEREAS, the Black Hall River flows into and is a tributary of the Connecticut River; and

FBG/McCulloch/DSM-CRvF/12-28-99

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Received for Record 12/30/99 at 2:39 PM
Warranted by Eileen K. Coffey, A.C. Town Clerk

"No Conveyance Tax collected"
Eileen K. Coffey, A.C.
Town Clerk of Old Lyme

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WHEREAS, protecting the water quality of the Black Hall River and the Connecticut River is of importance to the State of Connecticut's ongoing efforts to restore anadromous fishery to said rivers; and

WHEREAS, the Protected Property possesses predominantly undeveloped, natural habitat, with significant scenic, ecological, and open space values of importance to Grantor, to Grantee, to the Town of Old Lyme, and to the people of the State of Connecticut; and

WHEREAS, the Protected Property is located within the watershed of the Tidelands of the Connecticut River, which has been declared a "Last Great Place" by The Nature Conservancy; and

WHEREAS, Grantee owns other preserves and Conservation Restrictions at the mouth of the Black Hall River that will be benefited by protection of the Protected Property; and

WHEREAS, there are threatened and endangered species and species of special concern located within Black Hall River estuary system; and

WHEREAS, Grantor and Grantee share a common goal of protecting the watershed of the Black Hall River and the lower Connecticut River; and

WHEREAS, Grantee desires to enable additional protection of the area of the Black Hall River watershed in furtherance of its goal of protecting the estuary and tidal marshes of the lower Connecticut River; and

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WHEREAS, the protection of the watershed of tributaries of the Connecticut River is in furtherance of numerous clearly identified municipal, state, and federal public policy goals; and

WHEREAS, the Protected Property is in the watershed of and is contiguous to the Silvio O. Conte National Fish & Wildlife Refuge and the protection of the watershed of the Connecticut River and natural wildlife habitat through private conservation action is a stated goal of the Refuge "Action Plan"; and

WHEREAS, the Protected Property is in the watershed of and contiguous to a special focus area of the Silvio O. Conte National Fish and Wildlife Refuge; and

WHEREAS, the Protected Property is located within the watershed of a tidal wetland declared to be a wetland of international importance under the RAMSAR Treaty; and

WHEREAS, the Protected Property contains intact areas of forest, the protection of which is in furtherance of clearly delineated state and municipal policies and furthers Grantee's general goal of retaining and enhancing large areas of unfragmented forest within the watersheds of the Tidelands of the Connecticut River region; and

WHEREAS, the Protected Property contains actively used agricultural fields, the protection of which is in furtherance of clearly delineated state policies; and

WHEREAS, the Protected Property contains intact, naturally functioning inland wetlands, the protection of which is in furtherance of clearly delineated state policies as set forth in §22a-36 et seq. of the Connecticut General Statutes; and

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WHEREAS, the conservation and protection of the Protected Property as open space furthers identified municipal policies; and

WHEREAS, the Black Hall River provides water areas for outdoor recreation by the general public; and

WHEREAS, preservation of the Protected Property will, therefore, yield a significant public benefit; and

WHEREAS, the conservation values of the Protected Property are documented in a report prepared by ECCOS, Inc. to be kept on file at the offices of Grantee, with copies provided to Grantor (hereinafter referred to as the "Baseline Report"). The parties agree the Baseline Documentation provides an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, it is Grantor's and Grantee's goal and objective to protect the above recited conservation values of the Protected Property while permitting the continued private use and enjoyment of the Protected Property; and

WHEREAS, it is further Grantor's goal and objective to continue the traditional uses and practices of managing the timber, grasslands, pastures, and agricultural fields on the Protected Property for wildlife habitat, agriculture, forestry, and outdoor recreational uses that are not inconsistent with the protection of the conservation values of the Protected Property; and

WHEREAS, Grantee agrees that Grantor's goals and objectives are consistent with the Purpose, as defined below, of this Conservation Restriction; and

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WHEREAS, Grantee is a publicly-supported, tax-exempt, non-profit organization whose primary purpose is to preserve and conserve natural areas for aesthetic, scientific, charitable, and educational purposes; and

WHEREAS, Grantee represents that Grantee is a "qualified conservation organization," as that term is defined in Section 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"); and

WHEREAS, Grantee has received determination letters from the Internal Revenue Service, on file at the offices of Grantee, to the effect that Grantee is a "publicly-supported" organization under Section 170(b)(1)(A)(vi) of the Code and is not a private foundation described in Section 509(a) of the Code; and

WHEREAS, Grantor and Grantee recognize the natural, scenic, and special character of the Protected Property, and have the common purpose of its conservation and protection in perpetuity as "a relatively natural habitat of fish, wildlife or plants or similar ecosystem," as that phrase is used in Public Law 96-541, 26 U.S.C. 170(h)(4)(A)(ii) and (iii), by placing voluntary restrictions upon the use of the Protected Property and by providing for the transfer from Grantor to Grantee of affirmative rights for its protection, intending the grant of such restrictions to qualify as a "qualified conservation contribution" as that term is defined under Section 170(h)(2)(C) of the Code; and

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to Section 170(h) of the Code and Sections 47 - 42a through 47 - 42c of the laws of the State of Connecticut, Grantor hereby voluntarily GRANTS and CONVEYS to Grantee and its successors and permitted assigns a Conservation Restriction (the "Conservation Restriction") in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth. Grantor herein declares that the Protected Property shall be held,

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transferred, sold, conveyed, used, and occupied subject to the terms, covenants, conditions, and restrictions hereinafter set forth, which covenants, conditions, and restrictions shall be deemed to run with and burden the Protected Property in perpetuity.

PURPOSE

1.0 **Purpose.** It is the purpose ("Purpose") of this Conservation Restriction to ensure that the Protected Property will be forever retained in a predominantly undeveloped, natural, open space, forested, agricultural, or open field condition; to protect plants, animals, and natural communities of environmental concern; to restrict or prohibit activities that will impair or interfere with the ecological integrity and conservation values of the Protected Property recited above, and to protect other "significant conservation interests" as that term is meant under section 170(h) of the Code and regulations promulgated thereunder and as more particularly set forth in the Preamble to this Conservation Restriction. Grantor intends that this Conservation Restriction will limit the use of the Protected Property to activities that are consistent with the foregoing Purpose of this Conservation Restriction.

RIGHTS OF GRANTEE

2.0 **Affirmative Rights of Grantee.** Subject to the provisions of paragraph 2.1, Grantor hereby grants the following rights to Grantee, which rights shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee:

(a) to prevent Grantor or third persons (whether or not claiming by, through, or under Grantor) from conducting any activity on or use of the Protected Property that is inconsistent with the Purpose of this Conservation Restriction, and to require of Grantor or third persons the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use;

(b) to enter upon the Protected Property at reasonable times and in a reasonable manner in order to monitor Grantor's compliance with and otherwise enforce the terms of

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this Conservation Restriction, including but not limited to any inspection rights related to required notices for permitted practices as set forth in paragraphs 4 and 9, provided that such entry shall be upon prior reasonable notice to Grantor, and that Grantee, in the exercise of its monitoring rights, shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property as restricted by this Conservation Restriction;

(c) to enforce this Conservation Restriction in the case of breaches by Grantor or by third persons (whether or not claiming by, through, or under Grantor) by appropriate legal proceedings;

(d) to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring removal of offending structures, vegetation, and other restoration of the Protected Property to the condition that existed prior to any such violation (it being agreed that Grantee will have no adequate remedy at law); and

(e) with the approval of Grantor, to develop and implement a management plan (including, without limitation, the use of controlled burning) reasonably required for: the management of important conservation elements on the Protected Property, the protection of any threatened or endangered species or important natural communities which may be found on or adjacent to the Protected Property, and the control and removal invasive species.

2.1 Grantee's Remedies.

(a) In the event that Grantee becomes aware of a violation of the terms of this Conservation Restriction, Grantee shall give written notice to Grantor and request corrective action sufficient to abate such violation and restore the Protected Property to a condition substantially similar to that which existed prior thereto. Failure by Grantor to: (i) discontinue or cure such violation within the time period reasonably specified in such notice; (ii) immediately begin good faith efforts to discontinue, abate, or cure such violation where completion of such action cannot be reasonably accomplished within the specified time period and to continue such efforts until completion; or (iii) initiate and

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continue such other corrective action as may be reasonably requested by Grantee, shall entitle Grantee to: (w) bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Restriction; (x) require the restoration of the Protected Property to a condition substantially similar to that which existed prior thereto; (y) enjoin any noncompliance by temporary or permanent injunction; and (z) recover any damages arising from such violation or noncompliance.

(b) If Grantee, in its sole discretion, reasonably exercised, determines that emergency circumstances require immediate action to prevent or mitigate significant damage to the conservation values to be protected by this Conservation Restriction, Grantee may pursue its remedies under this **paragraph 2.1** without prior notice to Grantor or without waiting for the period for cure to expire. Grantee shall provide Grantor with immediate notice of all actions taken by it pursuant to this **subparagraph 2.1(b)**.

2.2 **Forbearance Not a Waiver.** Any forbearance by Grantee in the exercise of its rights under this Conservation Restriction or arising from any breach of any term hereof shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Restriction or of any of Grantee's rights under this Conservation Restriction. No delay or omission by Grantee in the exercise of any right or remedy upon any breach shall impair such right or remedy or be construed as a waiver.

2.3 **Acts Beyond Grantor's Control.** Nothing contained in this Conservation Restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, acts of God, force majeure, acts of government authorities (including but not limited to local fire districts), acts of trespassers or the unauthorized wrongful acts of third persons, fire, flood, storm, and earth movement, or major natural disease, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate injury to the Protected Property resulting from

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such causes. Notwithstanding the foregoing, nothing herein shall limit or preclude Grantor's and Grantee's rights to pursue any third party for damages to the Protected Property from vandalism, trespass, or any other violation of the terms of this Conservation Restriction.

2.4 **Costs.** Grantor agrees to reimburse Grantee for all reasonable costs of suit, including reasonable attorneys' fees, incurred by Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation hereof by Grantor, provided that such violation of this Conservation Restriction is acknowledged by Grantor or determined to have occurred by an arbitrator or court of competent jurisdiction, as the case may be. Grantee agrees to reimburse Grantor for all costs of suit, including reasonable attorneys' fees, incurred by Grantor in defense of any claim or action brought by Grantee in connection with any alleged violation hereof by Grantor, provided that Grantee acknowledges that such claim or action was without merit or if an arbitrator or court of competent jurisdiction, as the case may be, affirmatively determines that Grantor has complied with the terms and conditions of this Conservation Restriction.

PROHIBITED USES

3.0 **In General.** The prohibited uses and reserved rights for the Protected Property are based on Grantor's and Grantee's evaluation of the conservation values of the Protected Property and Grantor's goals and objectives of continuing limited private use and enjoyment of the Protected Property while ensuring that the Purpose of this Conservation Restriction is protected in perpetuity.

Grantor and Grantee agree that the Reserved Residential Areas identified in the Baseline Report are located in areas of the Protected Property where future lawfully permitted activities, improvements, or disturbance is not inconsistent with the conservation values of the Protected Property or the Purpose of this Conservation Restriction.

3.1 **Prohibited Uses.** There shall be no use of the Protected Property involving activities inconsistent with or adversely impacting the conservation values of the

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Protected Property or the Purpose of this Conservation Restriction. Except as provided in paragraph 6, any division of Parcels 1, 2, & 3 (as described on Exhibit 1) of the Protected Property or title to the Protected Property into more than four (4) separate lots or parcels, whether by subdivision, cooperative ownership, condominium ownership, or other form of common ownership that allows separate control and management of more than four (4) different areas of the Protected Property is hereby prohibited. Except as provided in paragraph 6, any such division of Parcel 4 of the Protected Property whether by subdivision, cooperative ownership, condominium ownership, or other form of common ownership that allows separate control and management of any portion of said Parcel 4 is hereby prohibited. In addition, except as provided in paragraphs 4, 5, and 6, the following activities, acts, or uses are expressly forbidden on, over or under the Protected Property.

3.2 Prohibited Uses Within The Reserved Residential Area. Within or associated with the Reserved Residential Areas:

(a) There shall be no planting of species known to have invasive characteristics, which may be identified from time to time by written notice from Grantee. An initial list of such species are identified in the Baseline Report.

(b) Except for the existing common driveway and for private driveways serving the Reserved Residential Areas, as defined in paragraph 5.2 below, there shall be no construction of roads with impermeable materials, unless required by governmental authorities or reasonably required to prevent harmful runoff, erosion, or sedimentation of wetlands or areas of the Protected Property.

(c) There shall be no use of devices that lure insect species without discrimination for the purpose of killing them, more commonly known as "bug zappers".

(d) Grantor's activities shall be conducted in a manner designed to prevent runoff, erosion, sedimentation, or drainage flows that would have an adverse impact on the Protected Property or be inconsistent with the Purpose of this grant of Conservation Restriction.

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3.3 **Prohibited Uses Within Remaining Areas of the Protected Property.**

Except as expressly permitted in paragraphs 4, 5, & 6 below or to bring utilities to the Reserved Residential Area, on the remainder of the Protected Property:

(a) There shall be no construction or placement of any building, tennis or other recreational court, mobile home, swimming pool, fence, or sign (other than those required by Grantee for appropriate land management), asphalt or concrete pavement, billboard or other advertising display, antenna, satellite dish, utility pole, tower, conduit, line, sodium vapor light, or any other temporary or permanent structure or facility.

(b) There shall be no ditching, draining, diking, filling, excavating, dredging, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials, building of new roads, or change in the topography of the land through placing, moving, or removing soil or other substance or materials.

(c) There shall be no removal, destruction, or cutting of trees, shrubs, or plants, or planting of non-native species with invasive characteristics, shrubs, or plants, or disturbance or change in the natural habitat.

(d) There shall be no use of fertilizers, pesticides or biocides, including, but not limited to insecticides, fungicides, rodenticides, and herbicides, and no use of devices that lure insect species without discrimination for the purpose of killing them.

(e) There shall be no storage, placing, filling, or dumping of ashes, trash, garbage, vehicles or vehicle parts, debris, junk, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks.

(f) There shall be no pollution or sedimentation of surface water, natural watercourses, lakes, ponds, marshes, or any other water bodies, and there shall be no activities which will have an adverse impact on water purity or natural water levels and/or flow.

(g) There shall be no operation of dune buggies, motorcycles, all-terrain vehicles, or any other types of land-based motorized recreational vehicles.

(h) The Protected Property or any portion thereof shall not be included as part of the gross area of any other property not subject to this Conservation Restriction for the

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purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations, or ordinances controlling land use and building density. The development rights which have been encumbered or extinguished by this Conservation Restriction shall not be transferred to any other property pursuant to a transferable development rights plan, cluster development arrangement, or otherwise.

(i) There shall be no hunting or trapping on the Protected Property.

(j) There shall be no commercial recreational activities allowed, other than de minimis activities consistent with the provisions of §2031 of the Code and regulations promulgated thereunder. There shall be no industrial uses of the property allowed.

(k) Any use of the Protected Property which would be inconsistent with or have an adverse impact upon the Purpose of this Conservation Restriction or other significant conservation interests is prohibited, unless such use or activity is deemed necessary by Grantor and Grantee for the protection of the Purpose of this Conservation Restriction, in which case such use or activity shall be subject to notice to and approval of Grantee as provided in paragraph 9.4 hereof.

RESERVED RIGHTS; OBLIGATIONS

4.0 **Reserved Rights.** The prohibited uses of paragraph 3 notwithstanding, the following uses and activities of or by Grantor and Grantor's guests and invitees shall be permitted as set forth below. Grantee acknowledges having reviewed Grantor's existing use of the Protected Property and the reserved rights set forth in this paragraphs 4 & 5 and agrees that the exercise of such rights is not inconsistent with the Purpose of this Conservation Restriction and is not restricted hereby.

4.1 **Grantor's Reserved Rights for the Protected Property.**

(a) The right to engage in all acts or uses not expressly prohibited herein that are not inconsistent with the protection of the Purpose of this Conservation Restriction.

Commercial
recreational
activities -
horses/pasture

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(b) The right to engage in outdoor recreational activities, including by way of illustration and not limitation, bicycle riding, walking, horseback riding, cross-country skiing, fishing, camping, swimming, and boating (not powered or fueled by petroleum based fuels).

(c) The right to create, maintain and use unpaved woods roads and horse or foot trails with permeable materials, including but not limited to sand, gravel, shell, rock, or crushed stone and including raised footbridges on or over wetlands. The location, intensity and construction of any new horse trails and woods road shall not cause sedimentation or erosion of the Protected Property or be inconsistent with the Purpose of this grant. New horse trails and woods roads shall not be constructed within twenty-five (25) feet of or on or across wetlands and watercourses without notice to and the approval of Grantee pursuant to **paragraph 9.2(b)** hereof.

(d) The right to repair, maintain, replace and improve the existing structures improvements, access roads and woods roads on the Protected Property for the benefit of Grantor and other properties of the Grantor, Catherine Taffy McCulloch Holland, and Mary Jean McCulloch Vasiloff shown in the Baseline Report and served thereby, but not to widen the improved surface of said roads in excess of that required by law for the activities permitted herein, and the right to create, repair, maintain, and improve a new private driveways for the purposes permitted in **paragraph 5** below.

(e) The right to fish and shoot targets and clays; provided that target shooting with shotguns utilizing lead shot shall not occur over wetlands, ponds and water courses. The right to hunt and live trap animals in accordance with law (provided, however, no leg hold traps may be utilized) in order to: (i) prevent the over population of a species, (ii) maintain the health and diversity of flora and fauna on the Protected Property; (iii) protect agricultural crops and fields, (iv) protect the integrity of the dams on or abutting the Protected Property; and (v) remove nuisance animals. Prior to allowing hunting or trapping for the purposes set forth in (i), (ii) or (iii) above, pursuant to **paragraph 9.2(a)** hereof Grantor shall deliver Grantee a written report from a qualified forest ecologist,

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state agricultural agent, or wildlife biologist certifying the existence of such condition and recommending the removal of the wildlife to be hunted or trapped.

(f) The right to post all or a portion of the Protected Property against trespass, unauthorized hunting, or other unauthorized use by others and to exercise all legal rights available to Grantor to prevent such activity.

(g) The right to use the acreage or area of the entire Protected Property to secure regulatory approval to maintain, repair, replace, construct and reconstruct those buildings with living quarters, guest facilities, barns, stables, equipment facilities, and other lawfully permitted accessory structures on Grantor's remaining property not subject to this Conservation Restriction identified as the "Stone Barn Lot" within the "Area Excluded From Conservation Restriction" on the Plan, and on Grantor's Reserved Residential Areas permitted hereunder.

(h) Subject to the restriction set forth in **paragraph 3.1**, the right to sell, gift, mortgage, license, lease, or otherwise convey the Protected Property, or any portion thereof. Any such sale, gift, mortgage, license, lease, or other conveyance shall be subject to this Conservation Restriction in all respects, with written notice thereof provided to Grantee in accordance with the provisions of **paragraph 11** below.

(i) The right to restore, and/or maintain fields, coverts, grasslands, pasture, or meadows for commercial and/or non-commercial agricultural or wildlife management purposes, as more particularly set forth in **paragraph 4.2 (a)** hereof.

(j) The right to cut, harvest, plant, cultivate, and otherwise manage timber, as more particularly set forth in **paragraph 4.2 (b)** hereof.

(k) The right to construct and place accessory structures, as more particularly set forth in **paragraph 4.2(d)** hereof, including by way of illustration and not limitation, temporary roosting, feeding, and nesting shelters for wildlife, benches, observation blinds, interpretive and directional signs, tents and tent platforms, fences, dry stone walls (constructed without cement), and pole sheds or gazebos as reasonably needed to carry out or accomplish the activities permitted to Grantor hereunder; provided however, such

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structures shall be installed and located so as to be consistent with the Purpose of this Conservation Restriction. After notice to and approval of the location by Grantee pursuant to **paragraph 9.2 (b)** hereof, the right to construct one barn for bona-fide agricultural or forestry purposes related to the activities permitted hereunder only; provided, however, there shall be no storage of hazardous materials on the Protected Property, except for fertilizers, herbicides, and pesticides stored and used in conjunction with permitted agricultural activities on the Protected Property in accordance with applicable law.

(l) After notice to Grantee pursuant to **paragraph 9.2(a)**, the right to undertake controlled burning for forestry, grassland management, and wildlife management purposes.

(m) As reasonably necessary in connection with permitted uses, management, and protection of the Protected Property, the right to bring on the Protected Property and operate automobiles, light trucks, off-road vehicles (but not snowmobiles or motorcycles), farm equipment, forestry equipment (including forest product processing equipment), emergency and rescue vehicles, maintenance equipment, materials, supplies, and other vehicles and equipment. Notwithstanding the foregoing, the right to use all terrain vehicles and other off-road vehicles shall not be construed to include their use for recreational purposes.

(n) The right to use selective application of herbicides, in accordance with law, in order to remove or control plant species with invasive characteristics or which are a threat to the health of humans or animals and the right to remove invasive species, including the removal of phragmites from fresh water ponds and wetland habitats. The use of herbicides to remove large areas of invasive species or to remove phragmites or other invasive species from water and wetland habitats shall require notice to Grantee pursuant to **paragraph 9.2(a)** hereof.

(o) The right to compost or burn vegetative and forest waste deriving from activities and uses permitted on the Protected Property by this Conservation Restriction but not within 100 feet of a wetland.

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(p) After notice to and approval of Grantee pursuant to **paragraph 9.2(b)**, the right to drain and restore (including the removal of accumulated sediment) each and all of the man made ponds located on the Protected Property, including (without limitation) the pond located below the spring house adjacent to the electrical transmission line, for aesthetic enjoyment, fire protection, recreation, and wildlife habitat; provided, however, that such activity shall be undertaken in a manner that prevents erosion or sedimentation of the Protected Property and that all excess materials shall be disposed off of the Protected Property or in a manner consistent with the Purpose of this grant.

(q) The right to repair, maintain, and reconstruct existing dams, bridges and culverts on, under, or over wetlands and water courses; provided any such activity shall be undertaken in a manner that minimizes erosion and sedimentation and the impact of such activity on wetlands and water courses on the Protected Property and the right to construct, reconstruct, repair, and maintain temporary and permanent docks on the ponds. Grantee shall receive notice pursuant to **paragraph 9.2(a)** prior to the reconstruction or replacement of bridges and dams.

(r) The right to construct and maintain fish ladders in conjunction with Grantee, the State of Connecticut, or other governmental or non-governmental agency or entity for the purpose of restoring anadromous fish runs to the Black Hall and Connecticut Rivers.

4.2 Approved Practices and Standards for Identified Permitted Activities.

Grantor and Grantee agree to cooperate and work together in good faith to realize the multiple goals of preserving landowner uses and values, as expressed in the Preamble and **paragraphs 4.0 and 4.1**, while protecting the Purpose of this Conservation Restriction. The following provisions should be interpreted and utilized to provide a framework for the current and future land use practices permitted herein.

(a) The right reserved under **paragraph 4.1(i)** hereof to create, restore, and/or maintain fields, grasslands, pasture, or meadows for commercial and/or non-commercial agricultural or wildlife management purposes shall include, by way of example and not limitation, the right to: (i) clear forest trees and other growth from forested or overgrown

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areas for the purposes set forth above; (ii) prepare such areas for agricultural, pasture, garden, or open meadow use; (iii) plant, seed, and re-seed (including, by way of example, grasses, grains, orchards, grapevines, and nursery stock), but not species with known invasive characteristics; (iv) trim and cut brush and trees in order to maintain clear borders around or paths within such areas; (v) construct fences in and around such areas; (vi) temporarily store manure for agricultural purposes on a seasonal basis, but not within 100 feet of any wetland or watercourse; and (vii) apply herbicides, pesticides, fungicides, and fertilizers for bona-fide agricultural and garden purposes. The cultivation of row crops requiring applications of fertilizers should be located in areas of slopes and soils suitable for such purposes and not within fifty (50) feet of wetlands or watercourses. An adequate buffer of high grasses, shrubs, or trees should be maintained between the permitted activity and adjacent wetlands and watercourses on the Protected Property in order to ensure the preservation of the quality thereof and to protect the Purpose of the Conservation Restriction. Notice should be given and Grantee's approval received pursuant to **paragraph 9.2(b)** hereof prior to Grantor clearing new areas (other than those areas shown as open on the Baseline Report) larger than three (3) acres, provided that clearing (other than the area of existing pasture and field as shown in the Baseline Report) shall not be allowed within 100 feet of wetlands or watercourses. Applications of herbicides, pesticides, fungicides, and fertilizers under **paragraph 4.1(i)** hereof should be undertaken in accordance with law, ecologically sound agricultural practices, and in light of the actual needs of the crops or cover being grown at any time and the slope, filtration, and run-off characteristics of the site. The use of fields or wooded areas as pasture for animals shall be managed to prevent erosion and sedimentation of the Protected Property and limited in extent so as to prevent detrimental levels of animal waste. The pasturing of animals shall not be undertaken in a manner that allows or results in damage to the stability of the banks of any permanent or seasonal water courses on the Protected Property or erosion and sedimentation of the Protected Property generally.

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(b) The right reserved under **paragraph 4.1(j)** hereof to cut, harvest, plant, cultivate, and otherwise manage timber shall include, by way of example and not limitation, the right to: (i) cut and remove diseased or dead trees, shrubs, or plants, create and maintain firebreaks, and cut firewood; (ii) create and/or maintain cleared brushy areas of up to three (3) acres in an early successional brushy state; (iii) selectively cut trees and shrubs over a defined area or areas for intermediate harvests of immature timber stands or to thin, but not clear, the forest canopy for the improvement of the forest under story, for the natural regeneration of forest growth, for wildlife habitat, to maintain views from a Reserved Residential Area or to allow light into such areas, or for other permitted purposes; (iv) harvest timber commercially or for forest or wildlife management by creation of clear cut, irregularly shaped areas of reasonable size, each not to exceed three (3) acres without the provision of a two hundred (200) foot forest buffer between cleared areas; and (v) plant native forest trees, shrubs, bushes, and plants that do not have invasive characteristics. The foregoing practices necessitate the right to construct, use, and maintain temporary logging roads as necessary for such operations. The activities set forth in (ii), (iii), and (iv) shall be carried out under the supervision of a professional forester, forest ecologist or wildlife biologist in accordance with a written forest and/or wildlife management plan that addresses such issues as wetland crossings, equipment use, forest regeneration and wildlife habitat (specifically providing for regeneration of forested areas in light of a general goal of minimizing long term forest fragmentation and retaining sufficient mature trees, den trees, and standing deadwood in order to re-establish a natural wooded state to the Protected Property and provide for wildlife), and other issues necessary for ecologically sound management of the Protected Property, which report shall be delivered to Grantee pursuant to **paragraph 9.2(a)** hereof. The activities set forth in (ii) and (iv) above shall not occur within fifty (50) feet of a wetland or water course on the Protected Property without notice to and approval of Grantee pursuant to **paragraph 9.2(a)** hereof.

(c) Except for areas that: (i) are now, or (ii) have previously been used as agricultural fields or are identified as appropriate for clearing for agricultural purposes in

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the Baseline Report, in conducting the agricultural and forestry rights permitted herein on Parcel 1, Parcel 2 and Parcel 3, Grantor shall ensure that 75% of the area that is currently forested, as shown in the Baseline Report, shall be maintained in a canopied state of different forest stages unless otherwise approved by Grantee pursuant to **paragraph 9.2(b)** hereof. For the purposes of conducting the agricultural and forestry rights permitted herein on Parcel 4, the foregoing standard shall be 70% .

(d) The right reserved under **paragraph 4.1(k)** hereof to construct temporary and/or accessory structures should be interpreted to include construction and placement of: (i) temporary roosting, watering, and nesting shelters for wildlife; (ii) fences, benches, observation blinds, interpretive and directional signs, tent platforms, or portable sheds; and (iii) accessory structures, including, by way of example, paddocks, pole sheds, and gazebo's used for agricultural, or recreational purposes. Except for the bona-fide agricultural barn permitted hereunder, no such structure shall contain foundation, full footings, or facilities requiring a septic or other underground waste disposal system and, except as reasonably related to Grantor's recreational use of the manmade ponds, no accessory structure described above not be placed within fifty (50) feet of wetlands or watercourses without notice to and approval of Grantee pursuant to **paragraph 9.2(b)** hereof. Except for existing structures and the bona-fide agricultural structure permitted hereunder, accessory structures constructed under the provisions of **paragraph 4.1 (k)**, other than fences and stone walls, should not exceed an aggregate of one thousand (1,000) square feet of impermeable ground coverage and no one structure shall exceed five hundred (500) square feet, without notice to and approval of Grantee pursuant to **paragraph 9.2(b)** hereof.

4.3 Definitions.

- (a) "Native" plants, trees, shrubs, or plants means plants, trees, or shrubs indigenous to the southern, New England region.
- (b) "Trimming" or "pruning" means the selective cutting of branches of trees and shrubs to improve individual specimen form and vigor.

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(c) "**Thinning**" or "**thin**" means the selective removal of trees and shrubs for the purpose of opening the canopy and promoting under story growth. The width of the resulting opened area should not generally exceed the average height of the trees in the immediate vicinity.

(d) "**Clear cut**", "**clear**", or "**clearing**" means the removal of all or substantially all trees and shrubs where the width of the cleared area generally exceeds twice the average height of mature trees in the immediate vicinity.

(e) "**Pole shed**" or "**gazebo**" means a structure constructed on vertical poles, posts or concrete tubes, but without full footings on a foundation, and which does not require excavation of the land.

(f) "**Row crops**" means those crops requiring annual tilling of the soil or which do not leave a live root structure and ground cover capable of protecting the soil from erosion after harvest.

(g) "**Threatened**" and "**endangered**," when used in reference to plants, animals, or species, shall be deemed to mean those species identified under federal or state law, including the State of Connecticut Natural Heritage Program or any successor list compiled under duly authorized state or federal programs, as endangered, threatened, of special concern, or other category requiring legal protection under such laws.

(h) "**Farm**" and "**Agriculture**" for the purpose of this instrument means the use of land for the production of plants and/or animals useful to man in a manner consistent with the Purpose of this Conservation Restriction. Without intending to amend or expand the scope of the activities reserved to Grantor in paragraphs 4.1(f) and 4.2(a), such use may include, by way of illustration and not limitation, including, but not limited to, forage, grain and field crops; pasturage, dairy and dairy products; poultry and poultry products; other livestock and fowl; livestock and fowl products, including the breeding and grazing of any or all such animals; bees and apiary products, fruits and vegetables of all kinds; nursery and floral and greenhouse products; orchards including the raising and harvesting of trees of any type, which do not have invasive characteristics; and the

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processing and storage of the agricultural production of the Protected Property, and other similar and compatible uses.

(i) "**Selective application of herbicides**" means a topical application on individual plant basis and not by any general broadcast method.

(j) "**Woods Road**" means an unsurfaced road, constructed with permeable, natural materials, suitable for farm and forestry equipment and use related to the activities permitted to Grantor hereunder. Any such road shall not interfere with the natural functioning of wetlands or wildlife habitat on the Protected Property or cause erosion or sedimentation of the Protected Property.

(k) "**Commercial**" means the purchase and sale or exchange of goods and commodities, other than de minimis amounts that bear no rational relationship to for profit activities, arising from activities permitted to Grantor in this Conservation Restriction.

RESERVED RESIDENTIAL AREAS; DWELLING UNITS; ACCESSORY STRUCTURES

5.0 **Reserved Residential Areas.** Notwithstanding any other provisions herein to the contrary, Grantor reserves the right to create an aggregate of two (2) Reserved Residential Areas on Parcels 1, 2 or 3 of the Protected Property, each containing no more than one (1) primary residential Dwelling Unit (as hereinafter defined) and one or more Accessory Buildings (as hereinafter defined) with respect to such Dwelling Unit on the Protected Property, and to provide access and utilities thereto. All structures, lawns, courts and other such improvements and improved areas for each such Dwelling Unit and its Accessory Buildings, exclusive of access drives and utilities, shall be located within a contiguous area not to exceed **THREE (3) acres**. Unless otherwise approved by Grantee after notice pursuant to **paragraph 9.2(b)** hereof, a Reserved Residential Area may be located within the area identified on the Baseline Report only. Upon the occurrence of the approval of an alternative Reserved Residential Area, the contiguous building area so designated and approved shall be governed under the terms and conditions of this

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Conservation Restriction as if such site was designated as a Reserved Residential Area. Notwithstanding the foregoing, no Reserved Residential Area or any portion thereof, may be located on Parcel 4 of the Protected Property or within three hundred feet (300 ft.) of the three manmade ponds located on the Protected Property and similarly protected property owned by family members of Grantor and shown on the Plan as running northerly from Whippoorwill Road.

5.1. **Definitions.** The following definitions apply for purposes of this paragraph 5.

(a) **"Dwelling Unit"** means a structure or self-contained portion thereof designed as a single-family dwelling (including associated wells and septic systems). A Dwelling Unit may include household guest and employee quarters and a home occupation or professional offices for the occupant as allowed by law and may have Accessory Buildings as hereinafter defined.

(b) **"Accessory Buildings"** means other buildings, structures, and improvements customarily accessory, incidental and subordinate to the principal building located within the Reserved Residential Area. Such buildings, structures, and improvements may include or contain separate guest and employee quarters, studios, workshops, swimming pools, tennis courts, solar panels, flagpoles, gazebos, barns, stables, and other buildings and facilities for forestry and agriculture activities for the personal use of Grantor and others on the Protected Property, improvements for fresh water supply, utilities, and communications, satellite dishes, septic waste disposal facilities, outbuildings, garages, and outdoor furniture and ornaments, all as allowed by law.

5.2. **Access to the Reserved Residential Areas.** Grantor reserves the right to construct, improve, and maintain private driveways in order to provide a private road and right-of-way to the permitted Dwelling Units and Accessory Buildings within the Reserved Residential Areas. Improvements made under the provisions of this paragraph 5.2, which are located outside of the Reserved Residential Areas, shall be undertaken and maintained in a manner that minimizes erosion and sedimentation of the Protected Property and creates

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the least possible disturbance to the Purpose of this Conservation Restriction (for example, by using the existing common drive located on property of Catherine Taffy McCulloch Holland, existing woods roads and by creating access along unlighted roads. In no event shall such improvements be greater than those imposed by governmental requirements.

6.0 **Special Subdivision Rule.** Notwithstanding any other provision herein to the contrary, Grantor reserves the right to subdivide and convey all or any portion of the Protected Property to any organization that at the time of such conveyance would qualify as an eligible assignee of this Conservation Restriction under the provisions of **paragraph 10.1** or to an adjacent property owner with property subject to conservation restrictions substantively similar to this grant. Any conveyance of any portion of the Protected Property under the provisions of this **paragraph 6** shall be subject to this Conservation Restriction in all respects.

7.0 **Access.** No right of public access to any portion of the Protected Property is conveyed or created by this Conservation Restriction.

8.0 **Costs, Liabilities, Permits and Taxes.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of general liability insurance coverage and the timely payment of any taxes, assessments, fees, and charges (hereinafter collectively referred to as "taxes") assessed on Grantor's interest in the Protected Property and the acquisition of permits required, if any, for the activities permitted hereunder. Nothing contained herein shall require payment of such taxes when payment is contested by Grantor in good faith in accordance with law. In the event Grantor fails to pay taxes assessed on the Protected Property, which failure results in municipal action that threatens or jeopardizes Grantor's or Grantee's title to the Protected Property, Grantee may, but shall have no affirmative duty to, pay back taxes. In such event, all amounts so expended shall be a debt of Grantor to Grantee, together with interest at the legal rate, and Grantor hereby authorizes Grantee to file a notice of such obligation on the Old Lyme Land Records.

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8.1 **Hazardous Material.** Grantor shall hold harmless, indemnify, and defend Grantee and Grantee's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with the presence or release of any hazardous material or substance of any kind on the Protected Property. This paragraph 8.1 shall not apply in the case of any hazardous material or substance in any manner placed on the Protected Property by Grantee or Grantee's representatives or agents or in connection with unauthorized acts of third parties.

8.2 **Indemnification.** Grantor shall hold harmless, indemnify, and defend Grantee from any and all liabilities, injuries, losses, damages, judgments, costs, expenses of every kind, including reasonable attorney's fees, Grantee may suffer or incur as a result of or arising out of the negligent act or omission of Grantor, Grantor's employees, agents, guests, and invitees on the Protected Property. Grantee agrees to hold harmless, indemnify, and defend Grantor from any and all liabilities, injuries, losses, damages, judgments, costs, expenses of every kind, including reasonable attorney's fees, Grantor may suffer or incur as a result of or arising out of the willful or grossly negligent acts or omissions of Grantee, Grantee's employees, agents, guests, and invitees on the Protected Property.

NOTICE AND APPROVAL

9.0 **Breach: Approval by Grantee: Notice to Grantee.**

9.1 **Breach.** Notwithstanding any other provision of this Conservation Restriction, failure to secure such approval or give such notice as may be required by this paragraph 9 shall be a material breach of this Conservation Restriction and shall entitle Grantee to such rights or remedies as may be available under paragraph 2.

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9.2 Notice and Approval.

(a) When notice to Grantee pursuant to **paragraph 9.2(a)** is required pursuant to the terms of this Conservation Restriction, Grantor shall provide Grantee with at least **thirty (30)** days written notice of the scope and timing of the proposed activity, and the method and manner with which such activity will be accomplished, including a written description of any action planned to protect the purpose of this Conservation Restriction. Within such period, Grantee may comment on the proposed activities, suggest changes or actions in the timing, method, and manner of the proposed activities, and request any actions reasonably necessary to prevent a result that is inconsistent with the purpose of this Conservation Restriction or an adverse impact on any important environmental elements on the Protected Property, such as threatened or endangered species and critical, rare, or unusual habitat. Notwithstanding the foregoing sentence, Grantor may, in Grantor's sole discretion, proceed with such activity after the notice period has expired if such activity conforms with the Purpose of this Conservation Restriction.

(b) When notice to and the approval of Grantee is required pursuant to the provisions of this **paragraph 9.2(b)** by the terms of this Conservation Restriction, Grantor shall provide Grantee with at least **forty-five (45)** days written notice of the scope and timing of the proposed activity and the method and manner with which such activity will be accomplished sufficient for Grantee to determine its impact on the Purpose of this Conservation Restriction. Within such period, Grantee may comment upon the proposed activities, require amendments or other actions reasonably necessary to protect the ecological value of the Protected Property or the Purpose of this Conservation Restriction and shall provide its written approval or disapproval of such activity. Such approval shall be granted or denied at the sole discretion of Grantee, but may not be unreasonably withheld. In the event that Grantor desires to relocate the boundaries of the Reserved Residential Area, it shall request such approval in writing and shall include therewith such information identifying the proposed site and any and all limitations placed on the site in order to ensure that the location of the Dwelling Unit and Accessory

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Structures will not have an adverse affect upon wetlands, water courses or the Purpose of this Conservation Restriction. Grantee's approval of the alternative siting for a Reserved Residential Area shall not be unreasonably withheld and shall take into account the extent to which the location and activity associated herewith would destroy or have an adverse impact on wetlands, threatened or endangered species, or significant and otherwise unfragmented forest areas located on the Protected Property. Grantee agrees not to oppose, or support opposition, to any site location for a future Reserved Residential Area approved by it pursuant to this **paragraph 9.2**.

9.3 **Approval by Grantee.** When Grantee receives a request for its approval pursuant to **paragraphs 9.2(b)**, Grantee shall respond, in writing, within the applicable time period of such **paragraph** beginning on the date of receipt of Grantor's written request therefor; provided, however, in the event Grantee notifies Grantor in writing that additional relevant information is required in order for it to make an informed decision about the impact of the proposed activity, the time period for Grantee's response shall be extended by an additional **fifteen business (15) days**. Grantee shall evaluate Grantor's notice and requests in accordance with good faith exercise of professional judgment. In the event Grantee withholds approval, it shall notify Grantor in writing with reasonable specificity of its reasons for withholding approval and the conditions, if any are known to Grantee, on which approval might otherwise be given. Failure of Grantee to respond in writing within such time period shall be deemed to constitute written approval by Grantee of any request submitted for approval that is not inconsistent with the Purpose of this Conservation Restriction. Grantee shall not approve any proposed change or activity that would be inconsistent with the Purpose of this Conservation Restriction.

9.4 **Discretionary Consent.** Grantee's consent for activities otherwise restricted or prohibited or for which no provision is made in **paragraph's 4 and 6** hereof may be given if Grantee determines, in Grantee's sole discretion, that due to changes in scientific knowledge, technology, or good land management practices, such activities are beneficial to or consistent with the Purpose of this Conservation Restriction. Grantee shall not

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approve any proposed activity that would be inconsistent with the Purpose of this Conservation Restriction or allow additional development rights to accrue to the benefit of the Protected Property.

9.5 **Compliance.** Within thirty (30) days of the written request of Grantor, Grantee shall execute and deliver to Grantor a written document, in the form of an estoppel or compliance certificate, certifying, to the best of Grantee's knowledge, Grantor's compliance with its obligations of Grantor contained in this Conservation Restriction.

ASSIGNMENT BY GRANTEE; TRANSFERS BY GRANTOR

10.0 **Limitations on Assignment by Grantee.**

10.1 **In General.** The benefits of this Conservation Restriction shall be in gross and shall not be assigned by Grantee, except (i) if as a condition of any assignment, Grantee requires that the Purpose of this Conservation Restriction continues to be carried out in perpetuity, and (ii) if the assignee, at the time of assignment, qualifies as a publicly supported, qualified conservation organization under Section 170(h) of the Code and the laws of the State of Connecticut as an eligible donee to receive this Conservation Restriction directly. In furtherance thereof, Grantor consents to the assignment of this Conservation Restriction to the Old Lyme Conservation Trust or any qualified successor thereof in the event such assignment is deemed appropriate. Any attempted assignment by Grantee of the benefits of this Conservation Restriction contrary to the terms hereof shall be invalid, void, and of no effect.

10.2 **No Extinguishment Through Merger.** Grantor and Grantee herein agree that should Grantee come to own all or a portion of the fee interest in the Protected Property, (i) Grantee, as successor in title to Grantor, shall observe and be bound by the charitable conservation purpose imposed upon the Protected Property by this Conservation Restriction, and (ii) this Conservation Restriction shall not be extinguished through the doctrine of merger, in whole or in part. Any instrument of assignment of this

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Conservation Restriction or the rights conveyed herein shall refer to the provisions of this paragraph 10.2, and shall contain language suitable to confirm and re-impose this Conservation Restriction to the extent, if any, necessary to continue it in full force and effect.

11.0 **Transfers by Grantor.** Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which Grantor transfers any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the proposed transfer of any such interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Conservation Restriction or limit its enforceability in any way.

AMENDMENT; EXTINGUISHMENT

12.0 **Limitations on Amendment.** If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Restriction; provided that no amendment shall be made that will adversely affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and Title 47 Sections 42a - 42c of the Connecticut General Statutes. Any such amendment shall be consistent with the Purpose of this Conservation Restriction and shall not affect its perpetual duration as a charitable use. Any such amendment shall be executed by Grantee or by Grantee's successor in title to the benefits of this Conservation Restriction and by the record owner or owners of the portion or portions of the Protected Property to which the amendment applies and shall be filed on the appropriate public land records. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

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13.0 **Limitations on Extinguishment.** If circumstances arise in the future that render the Purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction may only be terminated or extinguished, whether with respect to all or part of the Protected Property, by judicial proceedings in a court of competent jurisdiction. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Protected Property (or any other property received in connection with an exchange or involuntary conversion of the Protected Property) after such termination or extinguishment, and after the satisfaction of prior claims and net of any costs or expenses associated with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made by Grantor after the effective date of this Conservation Restriction, which amount is reserved to Grantor) in accordance with their respective percentage interests in the fair market value of the Protected Property, as such percentage interests are determined under the provisions of paragraph 13.1, adjusted, if necessary, to reflect a partial termination or extinguishment of this Conservation Restriction. All such proceeds received by Grantee shall be used by Grantee to preserve and manage natural habitat for the benefit of fish, wildlife, or plants, or similar natural communities or ecological systems in the Town of Old Lyme.

13.1 **Percentage Interests.** For purposes of this paragraph, the parties hereto stipulate that as of the effective date of this grant the Conservation Restriction and the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property. Said percentage interests shall be determined by the ratio of the value of the Conservation Restriction on the effective date of this grant to the value of the Protected Property, without deduction for the value of the Conservation Restriction, on the effective date of this grant. The values on the effective date of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Code. The parties shall amend such values, if necessary, to reflect any final determination

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thereof by the Internal Revenue Service or court of competent jurisdiction. For purposes of this paragraph, the ratio of the value of the Conservation Restriction to the value of the Protected Property unencumbered by the Conservation Restriction shall remain constant, and the percentage interests of Grantor and Grantee in the fair market value of the Protected Property thereby determinable, subject only to any adjustment in such ratio attributable to the value of permitted improvements made by Grantor after the effective date of this Conservation Restriction, shall remain constant.

13.2 **Condemnation.** If all or any part of the Protected Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of the interests in the Protected Property subject to the taking and all incidental or direct damages resulting from the taking. All expenses reasonably incurred by the parties to this Conservation Restriction in connection with such taking shall be paid out of the recovered proceeds. Grantor and Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds in conformity with the provisions of paragraphs 13 and 13.1 (with respect to the allocation of proceeds). The respective rights of Grantor and Grantee set forth in this paragraph 13.2 shall be in addition to, and not in limitation of, any rights they may have at common law with respect to a modification or termination of this Conservation Restriction by reason of changed conditions or the exercise of powers of eminent domain as aforesaid.

GENERAL PROVISIONS

14.1 **Reasonableness Standard.** Grantor and Grantee shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Conservation Restriction in a timely manner and shall cooperate with one another and shall take all other reasonable action suitable to that end.

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14.2 **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the charitable, conservation Purpose of this Conservation Restriction. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Conservation Restriction that would render the provision valid and perpetually enforceable shall be favored over any interpretation that would render it invalid.

14.3 **Charitable Purpose.** Grantor and Grantee acknowledge that this contribution and grant of a Conservation Restriction is intended to and does result in a public benefit and a public charitable use enforceable in accordance with the laws of the State of Connecticut.

14.4 **Controlling Law.** The interpretation and performance of this Conservation Restriction shall be governed by the laws of the State of Connecticut.

14.5 **Title.** Grantor represents that the Protected Property is free and clear of all encumbrances, including, without limitation, liens or mortgages, and represents that, as the sole owner of the Protected Property in fee simple, Grantor have access to the Protected Property and has good right to convey to Grantee this Conservation Restriction, and that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Restriction.

14.6 **Severance.** If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction and their application to other persons and circumstances shall not be affected thereby.

14.7 **Entire Agreement.** This instrument and the Exhibits attached hereto set forth the entire agreement of the parties with respect to the Conservation Restriction and supersede all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph 12.

14.8 **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Restriction shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property, provided that a person is not responsible for violations that occur on such person's land after that person ceases to be an owner or have any interest therein.

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14.9 **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, or receipted delivery service or acknowledged facsimile transmission, addressed as follows:

To Grantor: David Sears McCulloch
18 Rowland Road
Old Lyme, CT 06371

with a copy to: Frederick B. Gahagan, Esq.
Waller, Smith & Palmer, P.C.
103 Halls Road P. O. Box 506
Old Lyme, CT 06371

To Grantee: The Nature Conservancy of Connecticut, Inc.
55 High Street,
Middletown, CT 06457

with a copy to: The Nature Conservancy
Attn: Legal Counsel
201 Devonshire Street, 5th Floor
Boston, MA 02110-1402

or to such other address as any of the above parties from time to time shall designate by written notice to the others.

14.10 **Effective Date.** Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this **DEED OF CONSERVATION RESTRICTION** is recorded in the Land Records of the Town of Old Lyme, Connecticut, after all required signatures have been affixed hereto. Grantee may re-record this instrument at any time as may be required to preserve its rights in this Conservation Restriction.

14.11 **Counterparts.** This **DEED OF CONSERVATION RESTRICTION** may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.

TO HAVE AND TO HOLD, the said Conservation Restriction, unto the said Grantee and its successors and assigns forever.

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EXHIBIT 1

Those four pieces or parcels of land shown on Sheet 1, Sheet 2, Sheet 3, Sheet 4, Sheet 5, Sheet 6, and Sheet 8 of a Plan entitled: "McCULLOCH FARM WHIPPOORWILL ROAD OLD LYME, CT SCALE 1"=100' DATE AUGUST 1, 1997 REVISIONS: DATE 12/9/99 CONSERVATION RESTRICTION AREA ADDED" RICHARD W. GATES LAND SURVEYOR 81 MAIN STREET, CENTERBROOK, CT (hereinafter referred to as the "Plan") and being more particularly shown as follows:

Parcel 1 being that parcel of land identified as "LAND OF DAVID SEARS McCULLOCH & JEAN ADAIR McCULLOCH 21 AC.±" on Sheet 1 of the Plan.

Parcel 2 being that parcel of land identified as "LAND OF DAVID SEARS McCULLOCH & JEAN ADAIR McCULLOCH 63 AC.±" on Sheet 1 of the Plan.

Parcel 3 being that Parcel of land identified as "LAND OF DAVID S. & JEAN McCULLOCH 183.9 AC.±" shown on Sheets 2, 3, and 6 of the Plan and, in addition, .50 AC. ± shown as a portion of that piece or parcel identified as "CONSERVATION RESTRICTION AREA" within the "STONE BARN LOT" on Sheet 8 of the Plan.

Parcel 4 being that piece or Parcel identified as "LAND OF DAVID S. & JEAN McCULLOCH 43.6 AC.±" on Sheet 5 of the Plan, specifically excluding therefrom that area identified as "AREA EXCLUDED FROM CONSERVATION RESTRICTION" running easterly from Whippoorwill Road along the northerly boundary thereof, which excluded area is 2.0 AC.±.

Subject to:

A Right of Way, Maintenance Agreement, and Restriction found in Volume 223, at Page 692 of the Old Lyme Land Records;

An Easement in favor of Connecticut Light & Power Company found in Volume 227, at Page 389 of the Old Lyme Land Records;

An Easement in favor of Andrew Pfeiffer and Marianne G. Pfeiffer found in Volume 227, at Page 389 of the Old Lyme Land Records;

An Easement to the Eastern Connecticut Power Company recorded in Volume 98, at Page 18 of the Old Lyme Land Records;

Subject to Easement reserved to other members of the McCulloch family over the common drive and woods roads on the Protected Property.

Town of Old Lyme, CT

October 29, 2019



Old Lyme Land Trust - Three Mile River Preserve + Open Space
 Old Lyme Land Owners / Upper Three Mile River Preserve + Open Space
 Off 4 Mile River Road

Property Information
 Property ID 24-13
 Location 20-1 SHORT HILLS RD
 Owner TOOKER HOWARD S
 Flat Rock Hill Road



Short Hill Road

MAP FOR REFERENCE ONLY
 NOT A LEGAL DOCUMENT
 Town of Old Lyme, CT makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.
 Geometry updated 05/01/2018
 Data updated 11/19/2018

① Cawiance LLC } potential acquisition / Town of Old Lyme
 ② May