

**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL AND ENERGY PROTECTION**

IN THE MATTER OF: : APPLICATION NO: 201816062
:
Candlewood Solar, LLC :
20 MW Solar Photovoltaic Project :
New Milford Assessor's Map :
Parcels 26/67.1, 9.6, and 34/31.1 :
Candlewood Mountain Road :
New Milford, Connecticut :
Petition by Rescue Candlewood Mountain for :
Party Status under C.G.S. Section 22a-19 : JANUARY 19, 2019

IN THE MATTER OF: : APPLICATION NO: 201816062
Petition by the Town of New Milford for :
Declaratory Ruling and for :
Party Status under C.G.S. Section 22a-19 :
Candlewood Solar, LLC :
20 MW Solar Photovoltaic Project :
New Milford Assessor's Map :
Parcels 26/67.1, 9.6, and 34/31.1 :
Candlewood Mountain Road :
New Milford, Connecticut :
Petition by Rescue Candlewood Mountain for :
Declaratory Ruling under C.G.S. Section 22a-19 :
And RCSA 22a-3a-4 (c) 1 : JANUARY 19, 2019

Rescue Candlewood Mountain ("RCM") is a voluntary association, and a coalition of Greater New Milford and Sherman residents concerned about the massive destruction of core forest and other environmental impacts to be caused by the Project.

- I. RCM hereby petitions the Department of Energy and Environmental Protection ("DEEP") to become a party in the above application requesting registration under the **General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities by Candlewood Solar LLC for a Stormwater Pollution Control Plan (SWPCP)** for a 20 MW (AC) Solar Photovoltaic Project located on Candlewood Mountain Road in New Milford.

Pursuant to Conn. Gen. Stat §22a-19 ("CEPA"), RCM seeks party status as an entity with a direct interest in the proceedings, which will be specifically and substantially affected as it is a voluntary association consisting of taxpayers and citizens of the host town of New Milford and the neighboring town of Sherman.

- II. RCM hereby petitions DEEP to become a party in the **January 16, 2019 Petition by the Town of New Milford for Declaratory Ruling** that the above project should “not proceed under a request for authorization under the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (“General Permit”). Rather, because of the massive adverse environmental impact of the Project, including the proposed destruction of some 54 acres of core forestland on Candlewood Mountain and the resulting potential for substantial stormwater runoff and erosion during and after construction, the Commissioner should require the developer to apply for an individual permit pursuant to her authority under C.G.S. § 22a-430b(c), because an individual permit will better protect the waters of the state from pollution.”

Pursuant to RCSA 22a-3a-4 (c) 1, RCM seeks party status as an entity with a direct interest in the proceedings, which will be specifically and substantially affected as it is a voluntary association consisting of taxpayers and citizens of the host town of New Milford and the neighboring town of Sherman and the legal rights of one or more of its members will be significantly affected by DEEP’s decision on the Declaratory Ruling petition. RCM’s participation in the proceeding is necessary to ensure its proper disposition.

The purpose of these interventions is to participate in these proceedings to prevent unreasonable pollution, impairment, and destruction of the public trust in the water, air, and other natural resources of the State, caused by, but not limited to the following:

- (1) The project’s disturbance to the land upland and proximate to state waters, including vernal pools, wetlands, and Candlewood Lake.
- (2) The project’s soil and sediment erosion and runoff that will unreasonably impair and unreasonably diminish water quality and unreasonably harm the hydrologic and ecological functioning of these waters.
- (3) The project’s stormwater management system, which is inadequate and insufficient to protect water quality.
- (4) The project’s extensive clearcutting, dense solar panel distribution, and inadequate plans for re-grading, reseeding, and stormwater management, which will cause unreasonable harm to the water and other natural resources of the state.

In addition, the purpose is to further prevent unreasonable impact to the natural resources of the State including loss and/or fragmentation of habitat, wildlife impacts, the unreasonable loss of farm/forest land and the lack of adequate vegetated buffers along the project boundaries.

The members of RCM will suffer property value loss and environmental impacts different from and greater than that of the public in general due to the proximity of the facility to their homes.

RCM seeks party status with full rights to participate in the above referenced proceedings as a party for the purpose of submitting testimony, briefs and other evidence relevant to the application under consideration.

RCM's participation will be in the interest of justice and is proper under CEPA – and is in accordance with RCSA 22a-3a-4 (c) 1 – in that the evidence and testimony to be given will show that the proposed activity for which Applicant seeks registration for a General Permit is likely to unreasonably harm the public trust in the water, air, or other natural resources of the State of Connecticut in that, if granted, the proposed facility will, inter alia, unreasonably impair the quality of the state's water, and unreasonably harm other natural resources of the state.

In support of these petitions RCM states the following:

- Rescue Candlewood Mountain is an unincorporated association of residents of New Milford and Sherman residents who organized to voice their concerns about the severe environmental and other impacts which will result from the construction of the Project.
- The proposed power generation facility will have a negative impact on the scenic vistas and natural resources in New Milford and Sherman by clear-cutting 57 acres of core forest in addition to utilizing an additional 16 acres of farmland.
- The design fails to fully consider impacts to water quality, scenic views, natural habitats and neighboring property uses.
- The design will cause severe environmental harm to the waters of the state, and to neighboring properties and scenic vistas due to lack of site buffers; inadequate stormwater quality control, runoff, soil erosion and sedimentation control; proposed clearing and associated forestry practices; aesthetics of improvements and/or personal property to be located on the subject property; landscaping standards; and lack of a decommissioning plan, and other best management practices for the conservation of natural resources and erosion control.
- We agree with the Town that because of the massive adverse environmental impact of the Project, including the proposed destruction of some 54 acres of core forestland on Candlewood Mountain and the resulting potential for substantial stormwater runoff and erosion during and after construction, the Commissioner should require the developer to apply for an individual permit pursuant to her authority under C.G.S. § 22a-430b(c), because an individual permit will better protect the waters of the state from pollution.
- As a result of granting this request, the individual permit process will provide the Town, RCM and others ample opportunity to review and comment on the developer's proposed stormwater management plan.

Name and Address of Petitioner

Liba H. Furhman
Authorized Member
Rescue Candlewood Mountain
P.O. Box 114
Gaylordsville, CT 06766
Telephone: 203-947-4767
Email: rescuethemountain@gmail.com

Background

On or about January 2, 2019, Candlewood Solar, LLC submitted an application to DEEP for registration under the General Permit. The application was made available on line on January 3, 2019. Accompanying the registration application is a Stormwater Pollution Control Plan (“SWPCP”) prepared by Wood Environmental & Infrastructure Solutions, Inc. The SWPCP was submitted to DEEP as required by the Connecticut Siting Council (“Siting Council”) as a condition of its December 21, 2017 issuance of a declaratory ruling in which it approved the Project.

RCM intervened in the Siting Council proceeding pursuant to C.G.S. § 22a-19 to oppose the Project due to its significantly adverse effect on the natural resources of the state. RCM and certain other persons adversely affected by the Project timely filed an administrative appeal pursuant to C.G.S. § 4-183 from the Siting Council’s approval (the “Appeal”). Trial of the Appeal in the Superior Court for the Judicial District of Hartford/New Britain (Cohn, J.) commenced on December 4, 2018 and is ongoing as of the date of this petition.

Conclusion

RCM’s applications for party status should be granted so that it may participate by presenting evidence and otherwise meaningfully assist the Commissioner in reaching decisions which minimize the impact to the natural resources of the state.

For the foregoing reasons, RCM respectfully requests the Commissioner to grant RCM’s requests for party status in the General Permit application # 201816062, and in the Town’s motion for Declaratory Ruling in the same matter, pursuant to § 22a-19 and RCSA 22a-3a-4 (c) as discussed above.

Dated: January 19, 2019
Gaylordsville, Connecticut

RESCUE CANDLEWOOD MOUNTAIN

By: _____

Liba H. Furhman
Authorized Member
Rescue Candlewood Mountain
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Telephone: 203-947-4767
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VERIFICATION

The undersigned, Liba H. Fuhman, duly authorized Member of Rescue Candlewood Mountain hereby verifies that the above petition is true and accurate to the best of her knowledge.

Subscribed and sworn to before me this ____ day of January, 2019.

Notary Public

My Commission Expires:_____

AFFADAVIT REGARDING NOTICE

Liba H. Furchman, being duly sworn, deposes and says:

- I am over the age of eighteen and believe in the obligations of an oath.
- I am the Authorized Representative for the petitioner, Rescue Candlewood Mountain, and am fully familiar with the facts set forth herein.

On January 19, 2019, the petitioner gave notice of the substance of the petition, and of the opportunity to file comments and to request intervenor or party status under R.C.S.A. §22a-3a-4 (c) (1), to all persons known by the petitioner to have an interest in the subject matter of the petition.

Such notice was served, via first-class mail, upon the parties listed on the attached list.

Dated at Gaylordsville, Connecticut, this 19th day of January, 2019.

Subscribed and sworn to before me this ____ day of January, 2019.

Notary Public

My Commission Expires:_____

INTERESTED PARTIES

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