



"In Land We Trust"

The Colebrook Land Conservancy, Inc.

P.O. Box 90, Colebrook, Connecticut 06021

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JUL 23 2012

CONNECTICUT
SITING COUNCIL

ORIGINAL

July 20, 2012

Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Proposed Regulations relating to Industrial Wind Turbines

Dear Sirs and Madame:

I am writing on behalf of The Colebrook Land Conservancy, Inc. (the "Conservancy") at the request of its Board of Trustees to offer comment on the proposed regulations you are considering respecting industrial wind turbines. The Conservancy is a local land trust and a qualified charity under Section 501(c)(3) of the Internal Revenue Code of the United States. The Conservancy is a non-partisan organization. Our organization was formed in 1986 and is run entirely by volunteers, and we are fortunate to have both an active Board of Trustees and an active membership. The purposes of the Conservancy are to promote, for the benefit of the general public, the preservation of natural resources, including land and water resources, plant and animal life, and unique scenic, natural and historic sites, principally located in, but not limited to, the Town of Colebrook, Connecticut. I invite you to visit our website at Colebrooklandconservancy.org

The Conservancy has approximately 300 members, a remarkable number given there are only about 1,400 souls in Colebrook. The Conservancy protects over 1,050 acres in Colebrook: it owns 648 acres and holds voluntary conservation easements on 413 acres. Included in the Conservancy's owned property is the Phelps Research Area, which consists of a 395-acre tract that has been described by the The Nature Conservancy as a "prime example of unspoiled nature in the northwestern part of Connecticut." The Phelps Research Area provides excellent refuge for a broad variety of wildlife. About 30 species of animals and more than 20 species of reptiles and amphibians have been reported on or near the preserve. Its location, large size and diverse habitat of rocky slopes, woodlands, post-agricultural fields and wetlands support birds that require undisturbed forest for breeding, such as the broad-winged hawk, pileated woodpecker, yellow bellied sap sucker, hermit thrush, white throated sparrow and several warblers. Besides being an excellent area for bird study and other research, the Phelps Research

Area is used to track the long term effects of the 1976 tornado. The Conservancy has provided stewardship of the Phelps Research Area since 1995. In 2009, The Nature Conservancy transferred ownership to the Conservancy, signifying an important vote of confidence by a national organization. The Phelps Research Area has been included in research done by the United States Forest Service.

While the Conservancy also owns and holds conservation easements on other significant tracts of land, The Phelps Research Area is a prime example of the benefits associated with the preservation of large tracts of land and the ecological and natural resources of the Northwest Corner of Connecticut. These resources are under ever greater threat, but there are significant conservation organizations in the Northwest Corner working to conserve what is left. And the area has attracted some national attention and Federal and State grants designed to further conservation values and which acknowledge the significance of this part of Connecticut. For example, the Conservancy has been the recipient of various State grants, including one that enabled us to purchase an important parcel at the corner of Routes 183 and 182, which includes excellent bird, wetland and upland habitat as well as the oldest surviving upland dairy barn in Colebrook (originally built in the late eighteenth century and referred to below as "Hale Barn") and a walking trail open to the public. The Conservancy did extensive restoration work necessary to keep the Hale Barn upright and historically accurate, and in 2009 was the recipient of a 2009 Barns Grant by the Connecticut Trust for Historic Preservation. Another example is the 50-acre natural preserve on Rockwell Road (Route 182A) on which the Conservancy has also established a walking trail with informative brochures at the trail head.

The Conservancy has also been the recipient of several Federal grants administered through the Natural Resources Conservation Service ("NRCS") in connection with the re-establishment of fields and the elimination of invasive plant species. The Conservancy believes its efforts are an important step in maintaining avian and wildlife friendly habitat in Colebrook. And the Conservancy has sought and received advice from the NRCS in connection with the removal of an older camp and the restoration of a seven acre parcel to a natural state. These efforts should be viewed in the context of a larger, landscape sized effort to provide natural habitat, clean waterways and ecological benefit in Colebrook. The Conservancy is also sponsoring the development of a management plan for The Sandy Brook Natural Area Preserve, a draft of which has been submitted to the State of Connecticut Department of Energy and Environment (DEEP). Sandy Brook is one of Connecticut's premier trout streams. Sandy Brook was considered the highest ranking salmon restoration stream in the Farmington River basin (a program that has now been discontinued), home to a diverse number of native fish and threatened or endangered species. We have also constructed various trails and sponsor various educational events during each year. As a result of the Conservancy's initiatives, I can say that we are a science-based organization that prefers to be guided by science in our actions.

As a local organization and as a conservation organization, the Conservancy has reviewed the proposed regulations and offers the following comments:

1. The Conservancy believes the proposed regulations of the Connecticut Siting Council (the "Council") do not adequately reflect or take into account the policies and priorities set by the State of Connecticut in the State Conservation and Development Policies Plan ("State C&D Plan") that is currently in effect and will be in effect until 2013. The State C&D Plan provides for two (of six) significant principles insofar as conservation is concerned: "4) conserve and restore the natural environment, cultural and historic resources and traditional rural lands" and "5) protect and insure the integrity of environmental assets critical to the public health and safety." The Conservancy believes the proposed regulations should make clear that the Council is not authorized to either ignore or alter the terms of the State C&D Plan and that any applications or petitions cannot be approved if inconsistent with these overriding growth management principles set forth in the State C&D Plan.

The Conservancy would like to call the attention of the Council to language contained in the State C&D Plan. With respect to growth management principle 4), the State C&D Plan provides, "These natural, scenic, recreational and historic areas of the [S]tate are essential to the quality of life, are important economic assets in Connecticut, and must be maintained and protected from adverse effects [emphasis supplied]. Preserving the heritage is a challenge in such a small, densely populated [S]tate with a limited land and water resource base." (Page 55.) With respect to growth management principle 5), the State C&D Plan provides, "Conservation of resources implies more than regulating effects on individual resources case by case. It requires that we recognize the finite nature of our natural resources and bend our creativity to ensuring that our activities do not deplete or unduly damage those that sustain us. It also requires that we recognize that the building blocks of natural systems interact in myriad ways, that our understanding of these is often limited, and that choices that affect them must be carefully considered. These principles must be integrated into all of our planning activities." (Page 79.)

The regulations should specify that the Council is entitled to rely on the Locational Guide Map that accompanies the State C&D Plan that indicates which areas of the State are "conservation area," a "preservation area" or "rural lands." The State C&D Plan provides that "conservation areas" "represent resource lands for the production of food, wood, water and mineral, or are important for sustaining native flora and fauna and the landscapes essential to scenic and recreational enjoyment." Moreover, in conformity with the State C&D Plan, the regulations should provide that any use that is "clearly and significantly incompatible with conservation" should "demonstrate the lack of alternate sites, overriding social or economic concerns..." (Pages 63 and 64.) The Conservancy believes that the regulations should include the requirement in appropriate circumstances that the applicant or petitioner demonstrate the lack of alternate sites, overriding social or economic concerns.

The State C&D Plan also makes reference to the importance of sustaining Connecticut's forest lands and of the need to work with municipal and private interests to maintain large, contiguous blocks of forest lands, citing a growing belief that 15,000

acres are the minimum size needed to enable forest systems to survive catastrophic events and “to support sustainable breeding populations of various species of birds and roaming animals.” (Page 69.)

The State C&D Plan is very clear in setting “Conservation Area Policies ([i]n order of priority)[:]

1) Existing Preserved Open Space – Support the permanent protection of public and quasi-public land dedicated for open space purposes.

2) Preservation Areas - Protect significant resource, heritage, recreation, and hazard-prone areas by avoiding structural development, except as directly consistent with the preservation value.

3) Conservation Areas - Plan for the long-term management of lands that contribute to the [S]tate’s need for food, water and other resources and environmental quality by ensuring that any changes in use are compatible with the identified conservation value.

4) Rural Lands - Protect the rural character of these areas by avoiding development forms and intensities that exceed on-site carrying capacity for water supply and sewage disposal, except where necessary to resolve localized public health concerns.”

The Conservancy believes that the incorporation of the State C&D Plan standards into the Council’s regulations will serve as a reminder to the Council, applicants and petitioners that the Council’s decisions should be consistent with the State policies set forth in the State C&D Plan.

2. The Conservancy believes that environmental issues respecting wind turbine siting decisions should be approached by the Council on a landscape scale. While it is relevant to find site specific facts with respect to any particular parcel of land, common sense tells us that a wind farm can affect wildlife beyond the acreage on which it is located, either directly through sound and light, or indirectly, for example, by causing the removal of prey animals which will result in predators moving to other areas or being squeezed out, or by creating awkward landing patterns for migratory birds. If people are up in arms about the noise, flicker, subsonic issues, etc., then it should be obvious that animals (for this purpose including mammals other than humans, reptiles, amphibians, fish and birds) will very likely also be affected. In the Northwest Corner of Connecticut, and in Colebrook specifically, the Conservancy, the State, the Metropolitan District Commission (“MDC”) and other organizations have made great efforts to preserve the conservation values at hand. The issues of open space, habitat, species preservation, and truly minimizing environmental effects are lost if only a single parcel is considered. Wildlife knows no property boundaries. The Conservancy’s wildlife management

efforts on its parcels throughout Colebrook have taught us that even small effects on a single property can have enormous effects on the surrounding area. Therefore, the Conservancy believes that the Council's regulations should require applicants and petitioners, wherever possible, to provide scientific analysis of what the broader ecological and environmental effects of a siting decision might be. To ignore the broader ramifications on the local ecology of siting decisions would be to ignore the substantial investments and efforts made by the State, municipalities and private parties in the preservation of open land and nearby natural areas and landmarks having high conservation values.

3. The Conservancy believes that in no event should the Council entertain a petition or application, or issue a permit prior to completion of the necessary or desirable environmental studies. Moreover, such studies as are submitted need to be finalized before submission and consideration of a petition or application, not some half-baked or incomplete, scientifically absurd submission that could not withstand peer or even a lay review. The Council should also require infra-sound studies, as there are significant animal species that are affected by infrasound; this is particularly important when there are present at or near any site animal communities that may suffer the effect of infrasound.


4. The proposed regulations contain standards that are in the Conservancy's opinion inappropriate, including those respecting setbacks and noise. The Conservancy recommends to the Council that the regulations adopt the World Health Organization standards which are based on significant scientific work and have been shown to work reasonably well. The setbacks contained in the proposed regulations would have the same effect as a taking without compensation in many cases. Similarly, the proposed noise standards would be disruptive not only of wildlife, but also of entire neighborhoods. The Conservancy believes the trend in other states is to set reduced noise standards. Connecticut should be at the cutting edge of that trend, rather than some backwater permitting high noise emissions. The Conservancy believes that government action which has virtually the same effect as a taking without just compensation is inconsistent with American values.

5. Finally, the Conservancy believes the proposed regulations do little to clarify either for the Council or an applicant or petitioner the standards required for wind energy in Connecticut. The proposed regulations, with myriad exceptions, and the grant of wide ranging interpretive latitude and lack of specificity as to what is required, make any siting decision appear to be a lottery likely based on political or financial interests rather than rational scientific analysis. The regulations are so loose as to support virtually any decision. The Conservancy submits that while it is desirable for the Council to have a certain amount of latitude, regulation that permits any outcome is really no regulation at all. The Conservancy recommends that the regulations contain definite standards that

need to be met, rather than making the establishment of standards in each case that may come before the Council a merely administrative matter.

Sincerely,

The Colebrook Land Conservancy, Inc.

By: 

Manuel Cords
President