TOWN OF KILLINGLY

PLANNING & DEVELOPMENT OFFICE
172 Main Street, P.O. Box 6000, Danielson, CT 06239
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ORDER
TOWN OF KILLINGLY
Elizabeth M. Wilson, Town Clerk

October 12, 2016

To: Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

From: Killingly Inland Wetlands & Watercourses Commission
172 Main Street
Killingly, CT 06239

Town of Killingly Inland Wetlands and Watercourses Commission
Order of Regulations and Restrictions

Re: Docket No. 470 – NTE Connecticut, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a 550-megawatt dual-fuel combined cycle electric generating facility and associated electrical interconnection switchyard located at 180 and 189 Lake Road, Killingly, Connecticut.

Town of Killingly File Number: 16-1432

Whereas, it is recognized by the Town of Killingly Inland Wetlands and Watercourses Commission (IWWC) that the Connecticut Siting Council (CSC) has exclusive jurisdiction over the location and type of electric generating facilities, pursuant to provisions of Section 16-50g et seq. of the CT General Statutes; and

Whereas, the Town of Killingly IWWC recognizes that under Section 16-50x.(d) they "may regulate and restrict" the proposed facility; and

Whereas, the Town of Killingly IWWC recognizes that under CT General Statutes, as stated above, the CSC may modify, confirm, or overrule the following regulations and restrictions set forth by the Town of Killingly IWWC in full, in part, or not at all; and

Whereas, the Town of Killingly IWWC held public meetings regarding the above referenced application currently before the CSC on Tuesday July 19, 2016, Tuesday September 12, 2016, Tuesday September 27, 2016, and Monday October 3, 2016 at which time the IWWC heard Citizens' Comments regarding the proposed electric generating facility; heard from the town of Killingly's consultant, Carl Stopper of TRC; and heard from representatives of NTE Connecticut, LLC regarding the proposal; and

Whereas, the Town of Killingly IWWC held one workshop, Wednesday October 12, 2016 where no public comments were taken, and at which time the IWWC worked on drafting this Order of Regulations and Restrictions; and

Whereas, the Town of Killingly, IWWC has reviewed all of the information and comments given to them by their consultant, NTE Connecticut, LLC, and the public they made the following findings:

1. The proposed site development and possible future electric generating facility – as presented, does not meet certain requirements and criteria of the inland wetlands and watercourses regulations of the Town of Killingly.

Therefore the Town of Killingly IWWC hereby makes the following:

Order of Regulations and Restrictions:

1: Based upon the outlet of the proposed drainage structure and regrading of the site, there is concern that wetlands A1, A3, and X will not receive adequate overland flow resulting in their destruction. A potential solution to this concern is described in the "Recommendations for CSC Conditions and Third Party Review" by TRC Environmental Corporation (TRC) as:

- Rainfall recharge to groundwater feeding the wetlands will be significantly impacted by the project through the extensive loss of the forested loose understory layer, site regrading and compaction of the site soils. To provide positive means of groundwater recharge a continuous crushed stone filled trench shall be installed along the limits of grading from Wetland A1 to Wetland A3.
- The trench shall be a minimum of 3 feet wide by 5 foot deep and shall be completely enclosed with filter fabric and covered with 1 foot of topsoil.
- The bioretention basin crushed stone underdrains shall be tied into the crushed stone trench. This system will provide additional treated stormwater runoff storage for recharge immediately upgradient from the wetland system.
- Soil breaks in the stone filled trench shall be provided between the bioretention basins to ensure even distribution of water along the entire limits of grading.

The IWWC believes that this potential solution will not only allow the wetlands to receive flows as and where they do currently, it will also be a benefit for the applicant as they could do away with the proposed wet basin, avoiding a potential "decoy" vernal pool.

2: The proposed oil tank and containment area pose a number of problems, namely: The size of the containment area forces a large increase in grading towards the wetlands (A1); The drainage inside the containment area could potentially allow for a fuel spill to enter the wetlands; The fabric containment area has to be laid by hand and each seam must be joined adequately or there is a risk of a spill getting into the ground water.

- The IWWC recommends a double walled or tank within a tank configuration rather than the proposed single wall tank and containment area along with a smaller containment area directly surrounding the proposed tank.

Per the report submitted by TRC:

- Eliminate the oil storage tank spill containment berm and change the welded steel tank design to a double-wall or "tank in a tank" design.
- The bottom of the tank shall have a double floor with interstitial leak detection monitoring. The tank bottom shall have an engineered cathodic protection system.
- The welded steel tank shall be designed and constructed in accordance with API Standards and shall comply with seismic design standards. Hydrostatic and leak testing and inspection shall be under the direction of a competent third party licensed professional engineer.
- Underground fuel piping shall be double walled with interstitial leak detection sensing.

- The fuel unloading area shall have spill containment suitable to handle the largest tanker capacity used to offload fuel to the storage tank and shall conform to 40CFR112.
- A Spill Prevention, Control and Countermeasures Plan and Facilities Response Plan conforming to 40CFR112 shall be prepared and implemented. The operator shall and facility personnel shall receive and keep updated the required spill response training and shall retain the services of an on-call Connecticut licensed spill response contractor to assist with larger spills.

3: The 25 foot no disturbance buffer in the Killingly IWWC regulations section 6.3 is not being upheld.

Section 6.3 states: No disturbance wetland buffer – 25 feet. Separation distances listed above may be increased by the Commission if deemed necessary for the protection and preservation of the natural and indigenous character of the wetlands and/or watercourses system and riparian corridors due to site specific factors such as topography, slope, soil type, presence of rare, endangered and/or species of concern, unique or uncommon habitats, etc.

- The commission recommends that this buffer be increased to a minimum of 75 feet from wetlands A1 and A3 where ever feasible.

The report by TRC agrees with the commission's recommendation:

- Within the main plant parcel, move the limits of all grading activities, clearing and disturbance a minimum of 75 feet from all wetland boundaries and maintain the tree canopy in this zone.
- The location of the administration building, compressor station, main plant facility, tanks and other site features shall be moved to accomplish the required separation.
- Slopes should be no greater than 2 horizontal to 1 vertical and shall have turf established to stabilize the surface from erosion.
- Erosion netting or turf reinforcing mat shall be used on all slopes equal to or steeper than 3 horizontal to 1 vertical along the north side of the site along the wetlands.

The commission also agrees with TRC that a 2:1 vegetated slope should be required, however if it is feasible to have 3:1 slopes the commission would prefer that all slopes be at 3:1.

4: The proposed E&S plan is too broad and does not go into enough specifics for the challenges of the site.

- In many instances the proposed silt fence and hay bales may not be enough to stop all sedimentation, especially during construction when retention basins may not be in place and functioning.
- An independent inspector should be onsite to monitor E&S and drainage, in addition to periodic inspections performed by town staff.
- The commission also recommends that temporary drainage basins should be constructed prior to grading the areas around wetlands A1, A3, and X. Runoff shall be directed at the drainage basins.

The TRC report also addresses this recommendation:

- Temporary sediment basins shall be added upgradient of Wetlands A1 and A3 and shall be properly sized in accordance with the CT Water Quality Manual.

Killingly Inland Wetlands and Watercourses Regulations section 6.3 states:

No system, at any distance from such watercourse or inland wetland, shall be constructed or maintained in such a manner so as to allow untreated surface drainage into any such watercourse or inland wetlands. Guidelines are available in the 2004 Storm Water Quality Manual, available from the Inland Wetlands Agency, the Department of Environmental Protection (DEP), or from the DEP

website: http://dep.state.ct.us/wtr/stormwater/stormwtrindex.htm. (Effective date: May 15, 2011)

5: The commission recommends that at least one hydrodynamic chamber that also removes suspended solids be installed in-line with the proposed catch basins prior to the exit to the proposed drainage basin(s). This is in line with past practices on industrial and commercial sites.

6: The proposed 15,000 square feet of wetlands disturbance at the proposed switchyard site (wetland D) requires a permit from the US Army Corps of Engineers (USACE). NTE is proposing a reclamation site of approximately 17,000 sq/ft of created wetland.

- Typically, when an applicant proposes a reclaimed / created wetland it is done at a 1.5:1 (past practice). NTE should propose a larger mitigation area and created wetland.
- Detailed plans and plantings should be submitted to the Killingly IWWC for review.
- This wetland should also be monitored by an independent inspector and maintained after project completion to insure the wetland characteristics remain.
- The created wetland should be monitored for a period of two growing seasons after full establishment.

The TRC report expounds on this:

- Wetland mitigation is proposed to offset the direct impact to Wetland D associated with the construction of the switchyard. A wetland replication area consisting of approximately 17,000 square feet (0.39 acre) is proposed.
- The proposed grading, planting and monitoring plans and details associated with the wetland replication area has not yet been completed.
- However, since the replication area is greater than 5,000 square feet, an application will need to be submitted to the New England District of the USACE. The New England District has detailed wetland creation plan submission requirements that should ensure that sufficient detail is provided in the future.
- The Town of Killingly shall be given an opportunity to review and approve this plan.

7: There have been no submissions to the IWWC for permitting of any proposed gas lines and water lines.

- The IWWC requires that all permits for water and gas be applied for and approved prior to the construction of the proposed energy generating facility.

Per the TRC report:

- Water supply from Connecticut Water Company, involving the Killingly system interconnection with the Plainfield system, shall receive permit and other necessary approvals from the Connecticut Department of Energy and Environmental Protection and the Connecticut Department of Health before any work on the site shall commence.
- In addition the plans for installation of water mains shall receive all local and Connecticut Department of Transportation road disruption and restoration permits, including detailed plans for maintenance and protection of traffic before site work shall commence.

- Plans for the installation of sewer, water main and gas pipelines in Lake Road, including detailed plans for maintenance and protection of traffic, shall require submission to the Town of Killingly for review and approval before any site work shall commence.

8: NTE is showing an increase in peak runoff from the switchyard site to the neighboring property.

- The IWWC requires that the peak runoff be equal to current peak runoff. Stormwater retention as well as treatment of any runoff shall be submitted and reviewed by the IWWC prior to approval.
- NTE should follow MS4 guidelines for monitoring all stormwater on site prior to any discharge to neighboring properties.

The IWWC would like to be informed of the Siting Councils ruling, and the procedure followed to procure that ruling. The IWWC would also like to be informed of any modifications to this proposal by either the Siting Council or NTE. Should there be a need to follow through on any recommendations made, please feel free to contact the IWWC staff, Eric Rumsey at (860) 779-5310, or via email at erumsey@killinglyct.org. Referral back to the IWWC should be a condition of approval, any recommendations made by the IWWC will be submitted to the Siting Council for their approval and / or to keep the Siting Council informed of the actions taken by the IWWC and the applicant.

Sincerely,

Sandy Eggers

Sandy Eggers
Chair, Killingly Inland Wetlands and Watercourses Commission

Cc: Killingly Planning and Zoning Commission
Sean Hendricks, Town Manager
Killingly Town Council
NTE

KILLINGLY TOWN CLERK

ELIZABETH M. WILSON

Receipt

Receipt Date: 10/13/2016 02:41:47 PM
RECEIPT # 72051

Recording Clerk: JP
Cash Drawer: CASH1
Rec'd Frm: PLANNING & DEVELOPMENT
Rec'd In Person

NTE CONNECTICUT LLC

Instr#: 2016-02392 Bk/Pg: 1309/368
DOC: ORDER
OR Party: KILLINGLY TOWN OF
EE Party: NTE CONNECTICUT LLC

Recording Fees	
Recording Fee	$0.00
Historic Preservation - Town	$0.00
Historic Preservation - State	$0.00
Local Capital Improvement - Town	$0.00
Community Investment Acct - Town	$0.00
Community Investment Acct - State	$0.00
DOCUMENT TOTAL: ---->	$0.00

Receipt Summary	
TOTAL RECEIPT: ---->	$0.00
TOTAL RECEIVED: ---->	$0.00
CASH BACK: ---->	$0.00

PAYMENTS	
Cash ->	$0.00