

To: Government Administration and Elections Committee

Monday, March 18, 2024

**TESTIMONY IN OPPOSITION TO SENATE BIL NO. 442, AN ACT CONCERNING
THE DESIGNATION OF MOUNT DECATUR AS A HISTORIC SITE**

Chairwoman Flexer, Chairman Blumenthal and distinguished members of the Government Administration and Elections Committee. My name is Harry Heller. I am an attorney admitted to practice law in the State of Connecticut and I represent Gales Ferry Intermodal, LLC (“GFI”), the owner of Allyn’s Hill or Mount Decatur which is the site of the remains of the site that accommodated the fort, the preservation of which is the subject of Senate Bill 442. Allyn’s Hill is the southernmost portion of a 165 acre site that was acquired by GFI in 2022. The entire property is contained in an industrial zoning district and much of the property was previously improved by the Dow Chemical manufacturing facility, the majority of which was shuttered circa 2011 with many of the buildings having been demolished and portions of the previously improved site currently in the process of environmental remediation. The property is strategically located for economic re-development with a deep water pier on the Thames River, rail service through the property and thousands of feet of frontage on a state highway and a 115 KV transmission line bisecting the property. It holds great potential to bolster the economy of both the Town of Ledyard and the Southeastern Connecticut region. Its strategic location is uniquely supported by the infrastructure necessary to foster significant economic redevelopment.

GFI, an out of state company, has made a substantial investment in this property, both in its initial acquisition and in the reconstruction of several hundred feet of pier on the Thames River to support the expansion of its marine contracting business. The property was acquired with knowledge of the former fort on Allyn’s Hill. GFI has consistently acknowledged both the existence and the historic significance of this resource. In order to insure consistency with its redevelopment of the industrial site and the preservation of the fort location as one of historic significance, GFI retained the services of Heritage Consultants, a recognized and highly respected archaeological firm, to investigate the former fortification and to assist GFI in formulating a plan that would reach a reasonable accommodation between the preservation of the historic site and the economic development initiative of the property owner.

While it is not particularly relevant to the legislation at hand, it is noted that Fort Decatur does not even receive a mention in the cultural resource section of Ledyard’s Plan of Conservation and Development. However, it has recently become sacred in the eyes of those who oppose GFI’s initiatives to redevelop its property. Redevelopment is a regulatory process and is administered in accordance with rules and regulations promulgated by Connecticut municipalities in accordance with Connecticut’s home rule form of governance. Ledyard’s land use regulations require a property owner to identify and protect important historic and cultural resources. To satisfy this burden, Heritage Consultants has completed a Phase IA and Phase IB Archaeological Site Investigation; and is currently completing its Phase II Study. It is, by order of magnitude, the most complete treatise on Commodore Decatur’s occupation of the Gales Ferry prominence during the War of 1812.

GFI has engaged in discourse with the State Historic Preservation Office as well as Archaeological Conservancy which has preserved over 585 historic sites across the United States. A draft agreement has been prepared with Archaeological Conservancy to ensure the preservation of this historic site, the final details of which are currently being negotiated. GFI believes that this administrative process, not legislation, is the most appropriate means to resolve competing interests and achieve the required historic preservation goals that are mandated by the local regulations and due respect for significant historic sites.

Proposed Senate Bill 442 is targeted legislation that implicates GFI's rights to utilize its property in accordance with applicable land use regulations. The legislation has the propensity to constitute a taking of GFI's property for which compensation will be required. GFI contends that this proposed legislation is unwarranted as the bill's goal of historic preservation of the Fort Decatur site will be adequately achieved through local and state administrative processes, including registration of GFI's development initiatives under the General Permit for Dewatering Wastewaters Associated With Construction Activities with the Department of Energy and Environmental Protection.

For the reasons set forth above, and the written testimony of David George, President of Heritage Consultants, GFI opposes the adoption of Senate Bill 442 as both unnecessary to achieve the perpetual protection of the former site of Fort Decatur and as an exercise of legislative authority to resolve issues that are better resolved through the appropriate administrative processes.

Respectfully submitted,

Harry B. Heller