

SUPREME COURT
STATE OF NEW YORK COUNTY OF TOMPKINS

In the Matter of the Application of

FLX STRONG by its President Kenneth Wolkin and CAYUGA
LAKE ENVIRONMENTAL ACTION NOW by its President John
V. Dennis,

Petitioners,

**AFFIRMATION OF
CHRISTOPHER T.
TESSAGLIA-HYMES**

Index No.:

For a Judgment Under Article 78 of the Civil Practice Law and
Rules,

vs.

TOWN OF LANSING ZONING BOARD OF APPEALS,
TERAWULF INC., CAYUGA OPERATING COMPANY LLC,
LAKE HAWKEYE LLC, and FRED DELFAVERO,

Respondents.

I, Christopher T. Tessaglia-Hymes, of legal age, affirm under penalty of perjury pursuant to N.Y. C.P.L.R. § 2106 the following:

1. I am a resident of Etna, New York in Tompkins County. I am a Field Applications Engineer with the K. Lisa Yang Center for Conservation Bioacoustics, Cornell Lab of Ornithology at Cornell University in Ithaca, New York.
2. I am familiar with the proposal for a data center at the site of the former power plant at Milliken Station.
3. I am a member of FLX Strong and am very concerned about the impact the proposed data center will have on bird communities and recreational birding in areas near the proposed location of the data center.

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4. I have been an active birder in the Cayuga Lake Basin for decades. I have been birding since I was about 8 years old. I am now 50 years old.

5. At the age of 17, I took an ornithology course at the Cornell Lab of Ornithology which fueled my passion and knowledge for birding at a young age.

6. Since the 1990s, I have annually tracked bird species I have observed in the Cayuga Lake Basin, first on handwritten lists, then electronic lists, and now using the app eBird, which was developed by the Cornell Lab of Ornithology. I was selected as a beta tester for eBird.

7. I regularly bird throughout the Cayuga Lake Basin, including in several areas in the Town of Lansing.

8. I have visited the Cayuga Shores Wildlife Management Area (“Cayuga Shores”), formerly known as Bell Station, for birding. Cayuga Shores was recently established as a state-managed wildlife area by the Department of Environmental Conservation (“DEC”).

9. According to DEC’s website, Cayuga Shores is an area preserved for wildlife habitat management and wildlife-dependent forms of recreation including bird watching.¹

10. Cayuga Shores abuts the Milliken Station site directly to the north and is closer than 500 feet from the proposed location of the data center.

11. From Cayuga Shores, you can get very close to the Milliken Station site and observe waterfowl species along and near the Lake.

¹ <https://dec.ny.gov/places/cayuga-shores-wildlife-management-area>.

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12. Cayuga Shores has a very interesting mix of habitat for birding, with a mix of open fields, mature forest, and slopes along the shoreline that provide unique opportunities for birding. The mix of habitats allows for a better variety of bird species.

13. Both at Cayuga Shores and other areas in the immediate vicinity, I have done a lot of birding in the area surrounding the proposed facility, especially during winter seasons.

14. Cayuga Shores is identified as a hot spot by birders in eBird. A hotspot is a designation in eBird which helps visitors assign checklists tied to a specific birding site to better track species seen in a particular location.

15. The construction and operation of the data center at the former Milliken Station will negatively affect bird species and the quality of birding in the surrounding areas, including at the neighboring Cayuga Shores.

16. The construction of the data center will likely cause loud and disturbing noises through the use of heavy machinery and equipment.

17. Once in operation, the data center will operate 24/7 and 365 days/year. I understand that the data center proposes to use fans for cooling. The data center will emit a constant, pervasive noise that will be detrimental to bird populations in the surrounding areas.

18. I am familiar with the research concerning the impact of human-made noise on bird species. Numerous studies have shown the negative impact of human-made noise sources on bird communities and the detectability of singing birds. Attached as **Exhibit 1** is a representative example of the research on this topic. Industrial noise hinders bird song and

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causes birds to avoid the area.² It can cause their territories to become smaller and hinder their ability to use song to successfully attract mates or breed.

19. Human-made noise can also hinder the quality and enjoyment of birding as a recreational activity. It inhibits birders' abilities to locate or identify birds in an area. I personally have a keen appreciation for sound in nature and rely extensively on my ability to accurately hear while birding.

20. Given how close the data center is to areas that I have birded and otherwise intend to bird in the future, including Cayuga Shores, the constant industrial noise and hum will diminish my ability and enjoyment in birding in these neighboring places.

21. I understand that the data center will also require new outdoor lighting.

22. The negative impact of artificial light to night-migrating birds is well documented in scientific research and common knowledge among ornithologists. Attached as **Exhibit 2** is a representative example of the research on this topic. Light pollution can confuse birds and cause them to become trapped, confused, or needlessly expend energy reorienting themselves, which can affect their ability to successfully migrate or breed.

23. My interest and enjoyment in birding in areas near the facility, including places like Cayuga Shores, will be diminished if the data center is ultimately constructed.

² See "A phantom road experiment reveals traffic noise is an invisible source of habitat degradation," PNAS (Aug. 31, 2015), available at <https://www.pnas.org/doi/10.1073/pnas.1504710112>.

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Pursuant to N.Y. C.P.L.R. 2106, I affirm this 28th day of January 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.



Christopher T. Tessaglia-Hymes