

January 13, 2021

Town of Wappinger Planning Board
20 Middlebush Road
Wappingers Falls, NY 12590
Sent via email and hand delivery

Re: Hudson Valley Lighting
Grid #6256-02-841673
M.A. Day Job No. 2020.077

Chairman Flowers and Planning Board members,

In response to the various review letters received by this office, we offer the following responses. Original comments from each letter are italicized. Our responses are in bold. Per the CPL July 2, 2020 letter:

- 1. Approval from the NYSDEC is required, a Wetland Permit may be required.*
Application has been made to the NYSDEC. Copies of the correspondence are submitted under separate cover.
- 2. The proposed limit of disturbance exceeds 1 acre. As a result, the project will require coverage under the NYSDE SPDES General Permit for Construction Activities and a full Stormwater Pollution Prevention Plan will be required.*
The full SWPPP was submitted to the Town on December 4, 2020.
- 8. It is unclear if any tree clearing is proposed, please clarify and provide Indiana Bat tree clearing notes if necessary.*
The required tree clearing has been identified on the Landscaping plan. The note regarding bats has been added to the Title sheet and Landscaping sheet. The application for tree clearing permit has been made to the Town on January 6, 2021.

Per the FP Clark letter dated July 2, 2020 we offer the following:

REVIEW COMMENTS

- 2. Wetlands. According to the plans and Full EAF, there are Federal and State regulated wetlands on and adjacent to the property. A wetland functional analysis report concerning the on-site wetlands should be submitted for review. A NYSDEC wetland*

jurisdictional map should also be submitted by the Applicant. Further, the Applicant should verify if the project would require approvals from the Army Corps of Engineers or other regulating agencies.

This report is included herein.

Please find enclosed with this submission:

- Twelve (12) copies of the Wetland Evaluation Report

We look forward to discussing this project with the Board at the February 1, 2021 Planning Board meeting. At that time we hope to receive a Negative Declaration and tree clearing approval. If you have any questions or require any additional information, I can be reached at 845.223.3202.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Amy Bombardieri', written over a horizontal line.

Amy Bombardieri
Day and Stokosa Engineering, P.C.

Cc: CPL, Client, file

Wetland Evaluation and Impact Report

Hudson Valley Lighting Site
151 Airport Drive
Town of Wappinger
Dutchess County, New York

September 2, 2020

Prepared by:

Michael Nowicki
Ecological Solutions, LLC
1248 Southford Road
Southbury, Connecticut 06488

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1.0 EXISTING CONDITIONS/SUMMARY

Regulatory Review - Ecological Solutions, LLC completed a wetland evaluation and wetland/buffer impact assessment for a proposed 142,500 S.F. addition to an existing 244,393 S.F. building to expand the existing Hudson Valley Lighting facility located on a 67 acres parcel at 151 Airport Drive in the Town of Wappinger (*Figure 1*). The proposed addition is sited at the rear of the existing building with the northeastern corner of the building in the 100 foot buffer. Additional impacts to the buffer are for a retaining wall and underground stormwater detention facility (infiltrator) with a paved drive area for truck access above.

The wetland boundary on the site was delineated by Ecological Solutions, LLC in accordance with the Routine Onsite Determination Method prescribed in the 1987 US Army Corps of Engineers (USACE) Wetlands Delineation Manual and Northcentral/Northeast supplement, the New York State Department of Environmental Conservation (NYSDEC) Article 24 Wetland regulations, and the Town of Wappinger Code. Sequentially numbered ribbon were placed in the field along the wetland boundary and survey located. The Town prescribed wetland buffer and NYSDEC Adjacent Area shall be extend 100 feet horizontally away from and paralleling the outermost wetland boundary.

Since there is no discharge of fill material into the wetland no authorization of the project is required from the USACE.

Existing Wetland/Buffer Conditions – The wetland on the site is forested and contains dense red maple and sycamore with spicebush and red-osier dogwood in the understory and skunk cabbage as the dominant herbaceous plant and is associated with the branches of Wappinger's Creek in the wetland. The buffer area is generally open meadow with some individual trees sporadically mixed in the field area. A small area of upland hardwood forest exists between the wetland and the field area. Some of the 100 foot buffer is part of the existing site development with a section of the existing parking area at the rear of the building within the 100 foot buffer (*Figure 2*).

Project Description/Impacts - The Applicant is seeking to construct 142,500 S.F. addition to an existing 244,393 S.F. building to expand the existing Hudson Valley Lighting facility. There is no wetland impact proposed. The proposed impact to the 100 foot buffer area is 0.65 acres.

Supporting documentation provided in this report concludes that the Applicant has met the standards and requirements set forth in the Town of Wappinger Code and that the proposed regulated activity can be permitted without adverse impact to the wetland functions and that the buffer impact is minimal and utilizes previously impacted area (parking lot at rear of existing building) as much as possible.

2.0 WETLAND FUNCTIONS

An assessment of wetland functions and values was conducted on the wetland identified and delineated on the site. Using a widely accepted method for wetland functions and values assessment developed by the New England District, U.S. Army Corps of Engineers, 13 distinct wetland functions and values were assessed for the delineated wetlands on the site. This method yielded an objective, descriptive quality index of each wetland rather than a subjective quantified rating of each wetland. This assessment had two major objectives:

1. Objectively identify the functions and values provided by the wetland.
2. Provide baseline data with which the Applicant could work in planning land uses, and against which the Applicant could assess potential impacts of proposed development of the site.

The descriptive quality index of each wetland, based on this methodology, is summarized in this report.

Wetlands are legally protected because of the functions they perform and the benefits that society reaps from those functions. Wetland functions are chemical, physical, and biological processes that wetlands naturally perform as a matter of course, such as absorption of nutrients or floodwaters, or provision of habitat for fish and wildlife. Wetland values are the benefits that society derives from wetland functions, such as flood abatement, or water quality maintenance.

The functions and values assessment conducted on the property was based on the method outlined in *The Highway Methodology Workbook Supplement: Wetland Functions and Values, A Descriptive Approach*, by the U.S. Army Corps of Engineers New England District. This method was selected over an arbitrary numeric quantifying assessment scheme because it provides an objective, descriptive approach to functions and values assessment based on professional observation and judgment rather than a simple numeric value rating system. Quantified functions and values assessments do not always provide for descriptive information about wetlands and therefore may overlook important aspects of wetland functions and values.

The Highway Method provides for assessment of each wetland for thirteen defined functions and values. Of these, the first eight are considered wetland functions, and the last five are considered to be wetland values.

Findings of the assessment are outlined below.

The wetland on the site is a broad-leafed deciduous forested wetland associated with branches of the Wappinger's Creek that flows through the wetland. The wetland has a small upland wooded buffer that transitions to upland meadow. Functions and values provided by the wetland includes floodflow attenuation, sediment trapping, nutrient removal, and fish/wildlife habitat. Of these, the most significant functions based on extent of rationale in identifying functions and values are floodflow attenuation and fish/wildlife habitat. Wildlife useage noted in the wetland is consistent with other sites in the area since

there were deer tracks observed in the substrate as well as raccoon tracks and other mammals. Common bird species would also be expected to utilize the wetland for nesting and foraging.

The following functions were reviewed:

1. **Groundwater Recharge/Discharge** – the potential for a wetland to serve as a recharge area for an aquifer or as a surface discharge point for groundwater.

The proposed building addition and associated features does not impact the wetland and only impacts 0.65 acres of the buffer mostly in the upland meadow area. The proposed project will not impact this function that the wetland can provide.

2. **Floodflow Attenuation** – A wetland's ability to store and attenuate floodwaters during prolonged precipitation events, thereby reducing or preventing flood damage.

This is one of the major functions provided by the wetland on the site. The proposed building addition and associated features do not impact the wetland and impact only 0.65 acres of the buffer. The impervious surface added to the site will be treated with infiltrators. The proposed project will not adversely impact this function.

3. **Fish and Shellfish Habitat** – The ability of permanent or temporary water bodies to provide suitable habitat for fish or shellfish.

There will be no impact to open water bodies or tributaries so no impact is expected.

4. **Sediment/Toxicant/Pathogen Retention** – The effectiveness of the wetland in trapping sediments, toxicants or pathogens, thereby protecting water quality.

This is also one of the major functions provided by the wetland on the site. Erosion controls will minimize any runoff from the work area during construction so that no sediment will reach the wetland. The proposed project will not adversely impact this function.

5. **Nutrient Removal/Retention/Transformation** – The effectiveness of the wetland at absorbing, retaining, and transforming or binding excess nutrients, thereby protecting water quality.

This is also one of the major functions provided by the wetland on the site. As with sedimentation, erosion controls will minimize any runoff from the work area so that no sediment/additional nutrient load will reach the wetland. The proposed project will not adversely impact this function.

6. **Production Export** – The wetland's ability to produce food or usable products for humans or other living organisms.

There is no impact to this function.

7. **Sediment/Shoreline Stabilization** – The wetland's ability to prevent erosion and sedimentation by stabilizing soils along stream banks or the shorelines of water bodies.

The is no impact to this function since there is no impact to wetland or watercourse.

8. **Wildlife Habitat** – The ability of wetlands to provide food, water, cover, or space for wildlife populations typically associated with wetlands or their adjacent areas, both resident and migratory.

This is one of the major functions provided by the wetland on the site. The proposed building addition and associated features do not impact the wetland and only impact 0.65 acres of buffer area which is mainly upland meadow. In the short-term during construction wildlife will move to adjacent habitat but once installed and completed wildlife will return. The proposed project will not adversely impact this function.

9. **Recreation** – The value placed on a wetland by society for providing consumptive and non-consumptive as well as active or passive recreational opportunities such as canoeing/boating, fishing, hunting, bird/wildlife watching, hiking, etc.

The is no impact to this function.

10. **Education/Scientific Value** – The value placed on a wetland by society for providing subjects for scientific study or research or providing a teaching resource for schools.

The is no impact to this function.

11. **Uniqueness/Heritage** – The value placed on a wetland by society for having unique characteristics such as archaeological sites or sites of historical events, unusual aesthetic qualities, or unique plants, animals, or geologic features, etc.

The is no impact to this function. The wetland is a common red maple swamp with watercourse.

12. **Visual Quality/Aesthetics** – The value placed on a wetland by society for having visual and/or other aesthetic qualities.

The is no impact to this function.

13. **Threatened or Endangered Species Habitat** – The value placed on a wetland by society for effectively harboring or providing habitat for threatened or endangered species.

There is no impact to this function since tree clearing is minimal and will be completed with NYSDEC approval.

3.0 STANDARDS FOR PERMIT ISSUANCE/FINDINGS

As per the Town Code :

§ 137-9 Standards for decisions on applications.

A. No permit shall be issued by the approval authority unless the approval authority shall find that:

(1) The proposed regulated activity is consistent with the policy of this chapter to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the town.

There will be no wetland impact associated with the proposed addition or other site development activities.

(2) The proposed regulated activity is consistent with the applicable land use regulations pursuant to § 24-0903 of Article 24 of the State Environmental Conservation Law.

All necessary NYSDEC permits will be obtained prior to construction on the site.

(3) The proposed regulated activity is compatible with the public health and welfare.

The proposed activity is consistent with the “public health and welfare” and all approvals will be obtained for water, sewer, planning/zoning, and other permits.

(4) The proposed regulated activity is reasonable and necessary.

Hudson Valley Lighting is expanding and requires additional building area. Adding onto the existing building in the current parking area is the most reasonable proposal for this site and is necessary to continue to grow this business without moving from the site.

(5) There is no reasonable alternative for the proposed regulated activity on a site which is not a freshwater wetland or adjacent area.

The expansion at the rear of the site is located generally in the rear parking area for the existing building. No wetland impact is proposed and the use of stormwater infiltrators under the proposed parking area reduces potential impacts to the site.

(6) In the event of negative impact(s), the mitigation proposed will mitigate adverse impact(s) identified in a manner that will allow the aquatic resource(s) to function in a manner substantially equivalent to the functioning of such resource(s) prior to the proposed activity.

A wetland establishment and buffer mitigation plan will be submitted to the Town as well as the USACE for review and approval. The mitigation effort will ensure that the functional capacity of the wetlands on the site will remain or exceed current levels.

4.0 PHOTOGRAPHS

Meadow/field area



Meadow/field area from rear parking area



Figure 1 - Location Map



Figure 2 - Development Plan Overlay on Aerial Map



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3

21 South Putt Corners Road, New Paltz, NY 12561-1620

P: (845) 256-3054 | F: (845) 255-4659

www.dec.ny.gov

December 17, 2020

Amy Bombardieri
3 Van Wyck Lane
Wappingers Falls, NY 12590

**Re: DEC Application ID No. 3-1356-00107/00005
Hudson Valley Lighting
NYS Freshwater Wetland PV-67 (Class II)
Town of Wappinger, Dutchess County**

NOTICE OF INCOMPLETE APPLICATION

Dear Ms. Bombardieri:

The New York State Department of Environmental Conservation (DEC) has reviewed the application materials associated with the above referenced project that were received November 9, 2020. The application is for an Article 24, Freshwater Wetlands permit. According to the information provided, the project involves expansion of an existing building to increase warehouse and storage space.

Based upon our review of the submitted materials, Department staff have determined that the application is incomplete. Please submit the following supporting information so that application processing may proceed:

1. Freshwater Wetlands - To meet permit issuance standards, 6 NYCRR Part 663 requires that disturbance to the wetland and its 100-foot adjacent area first be avoided, then minimized to the maximum practicable extent possible. The application does not adequately address how impacts have been avoided or minimized. Permanent disturbances occur very close to the wetland boundary with little or no buffer provided. Justification must be provided for disturbances to the wetland and adjacent area. Any activity identified as incompatible or usually incompatible must meet the weighing standards pursuant to §663.5(e). To meet the weighing standards, the activity:

- Must be the only practicable alternative that could accomplish the applicant's objectives and have no practicable alternative on a site that is not a freshwater wetland or adjacent area.
- must minimize degradation to the wetland
- must minimize adverse impacts to the functions and benefits of the wetlands, and
- must be compatible with the public health and welfare.



-OVER PLEASE-

DEC Application ID No. 3-1356-00107/00005
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The application must provide an alternatives analysis. Please also provide a narrative that discusses whether pervious pavement will be installed within the adjacent area. If this cannot be accomplished, please discuss why. Additionally, will the existing chain link fence remain?

It appears that there will be disturbance to the wetland although the Joint Application Form does not elaborate on what disturbances will occur in the wetland. The plans show a row of silt fence proposed within the wetland.

Please consider the use of alternative best management practices, such as a compost filter sock that uses biodegradable materials and creates less disturbance within the regulated area, in lieu of the proposed silt fence.

It appears that there may be room for additional native plants in between the proposed pavement and the wetland. The Department strongly recommends a more robust landscaping plan within the adjacent area.

- 2. Endangered and Threatened Species** – According to Department records, the following state-listed species have been recorded within or near the project site: Indiana Bat (NYS *Endangered*). Measures designed to avoid, minimize, and mitigate potential impacts to these species must be incorporated within project plans and included in plan notes.

The project tree removal window cited on the submitted plans is adequate to avoid impacting individual bats. In addition, the amount of tree cutting needed is small enough to not affect the amount of suitable warm season habitat for this species in the project area. However, lighting can have an adverse impact on bats, and it looks like minor changes are proposed. Please describe how much light is produced on the site now, how much light will be produced on the site after the proposed project is completed, and what measures are planned to reduce possible lighting impacts on bats.

- 3. State Environmental Quality Review Act (SEQR)** – DEC received a copy of the full Environmental Assessment Form (fEAF) signed June 6, 2020. No other SEQR information was received. From reviewing the website of the Town of Wappinger Planning Board, it appears they have determined they will circulate for Lead Agency of this Type 1 action. To date, I do not think DEC has received this coordination letter. Since the action is Type 1, review must be coordinated amongst agencies with permit jurisdiction. The SEQR Lead Agency may then issue a Determination of Significance. Uniform Procedures Act prevents this application from being complete until certain SEQR provisions are satisfied. When a Determination of Significance is available, please provide it.

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4. **State Historic Preservation Act** - We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicated that the project is located within an area considered to be sensitive with regard to archaeological resources. In order for the Department to consider this application complete, the applicant must consult the State Historic Preservation Office (SHPO) and submit their final determination as to whether any historic, architectural, archeological or cultural resources present in the project impact area are significant and if the project may have any impacts on such significant resources. For more information, please visit SHPO website at <https://parks.ny.gov/shpo/>.

5. **State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity** - While not an item of completeness, please be aware that if the entire project will disturb over 1 acre of land, the project sponsor must obtain coverage under the current SPDES General Permit (GP-0-20-001) for Stormwater Discharge from Construction Activities, and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.

6. **Joint Application Form** – Please affirm the landowner and applicant information are correctly filled out on the Joint Application Form. The landowner could be the applicant. If that is the case, they should be listed as both landowner and applicant. If Hudson Valley Lighting acquired the land, let me know. Either way, please confirm the information.

Sue Sullivan signed Page 4 of the Joint Application Form as applicant and owner. The signature should come from a person with a title of leadership in the corporations or partnerships involved in their respective rows on the form. Please confirm the title is correct.

From the Joint Application Instructions Form:

<u>Applications by . . .</u>	<u>Must be signed by . . .</u>
• Corporations	a member of the board of directors or a "high managerial agent" of the corporation, as defined in the § 20.20 of the NYS Penal Law.
• Partnership	a general partner.
• Sole Proprietorship	the proprietor.
• Limited Liability Company	by member or manager in accordance with the LLC's articles of organization as filed with the NYS Secretary of State.

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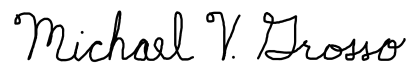
7. Application Fee - Your application did not include the required application fee. All Freshwater Wetland permit applications submitted to DEC must include the appropriate application fee. As your proposal will likely be determined to be major per Uniform Procedure Act (UPA) for filling a NYS Freshwater Wetland and/or Adjacent Area, you must submit a check or money order in the amount of \$200 payable to the New York State Department of Environmental Conservation ("NYSDEC"). Please note the above DEC application number on the check as well. We cannot process your application without first having received the required application fee.

Your application will remain as incomplete until all information requested is received, as Uniform Procedures Act (UPA) provisions §621.6(e) allow. Please provide one hard and one electronic copy of all materials to my attention. Additional information, including regulations, is available at the DEC website at: www.dec.ny.gov.

The project is considered a "major" project per UPA, and a 15-day public comment period is required once the application is considered complete.

If you have any comments or questions regarding the above matters, please do not hesitate to contact me at 845-256-3165.

Sincerely,



Michael Grosso
Environmental Analyst

Ecc: S. Sullivan, Iser Consulting
S. Pawliczak, Region 3 Ecosystem Health
S. Booth-Binczik, Region 3 Wildlife