

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3

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Department of
Environmental
Conservation

April 13, 2023

VIA EMAIL

Town of Wappinger Planning Board

Bea Ogunti

Secretary

bogunti@townofwappingerny.gov

Re: OLD MYERS SOLAR
Town of Wappinger, Dutchess County
DEC ID: 3-1356-00337/00001
Permit Jurisdiction Inquiry

Dear Town of Wappinger Planning Board,

The Department of Environmental Conservation (DEC or Department) received your Permit Jurisdiction inquiry on February 21st, 2023. The proposal involves the development of a 13.8-acre, 2 megawatt alternating current community solar project, along with associated site improvements. The project site is located at 189 Myers Corners Rd in Wappinger Falls. Based on our review of the submitted materials, including the EAF and associated site plans, we offer the following comments:

PROTECTION OF WATERS STREAM DISTURBANCE

The following stream is located within or near the site you indicated:

<u>Name</u>	<u>Class</u>	<u>DEC Water Index Number</u>	<u>Status</u>
Subtrib. of Wappinger Creek	C	H-101-4-2	Non-protected

A permit is not required to disturb the bed or banks of “non-protected” streams.

If a permit is not required, please note, however, you are still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

FRESHWATER WETLANDS

Your project/site is near or in Freshwater Wetland WF-25, (Class III). Mapped boundaries are approximate and a delineation and validation by DEC staff is required to determine the final boundary. Be aware that a Freshwater Wetlands permit is required for any physical disturbance within these boundaries or within the 100-foot adjacent area. To



have the boundary delineated, please contact Sarah Pawliczak of the Bureau of Ecosystem Health at sarah.pawliczak@dec.ny.gov or (845)256-3050.

WATER QUALITY CERTIFICATION

If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for the discharge to fill in Waters of the U.S., then a Section 401 Water Quality Certification (WQC) will be required. Issuance of these certifications is delegated in New York State to DEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQC. Coverage under a Blanket requires compliance with all conditions for the corresponding Nationwide Permit. For more information and to view the DEC Blanket WQCs, please visit <https://www.dec.ny.gov/permits/6546.html>. A determination on Corps jurisdiction and Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.

STATE-LISTED SPECIES

DEC has reviewed the State's Natural Heritage records. We have determined that the site is located within or near record(s) of the following state-listed species:

Name	Status
<u>Indiana Bat (<i>Myotis sodalis</i>)</u>	<u>Endangered</u>

A permit is required for the incidental taking of any species listed as “endangered” or “threatened”, which can include removal of habitat. Tree removal associated with this project should occur within the appropriate time of the year work window, October 1 through March 31, to avoid direct impacts to individuals and the need for an Article 11 take permit. If tree clearing cannot be completed within the acceptable time of year restriction, further review will be required.

The absence of data does not necessarily mean that other rare or state-listed species, natural communities or significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

FEMA FLOODPLAIN

The project site is located within a Federal Emergency Management Agency (FEMA) floodplain. The municipality will determine if any additional jurisdictions are applicable to the proposal.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER

If the overall project will disturb over one acre of land, the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001), and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit.

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Authorization for coverage under this SPDES General Permit is not granted until the Department issues all other necessary DEC permits.

As the site is within a Municipal Separate Storm Sewer System (MS4) community, the SWPPP must be reviewed and accepted by the municipality, and the MS4 Acceptance Form submitted with the SWPPP and the application for coverage, in accordance with the application instructions.

CULTURAL RESOURCES

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 indicate that the project is located within an area considered to be sensitive with regard to archaeological resources.

For more information, please visit the New York State Office of Historic Preservation website at <http://www.nysparks.com/shpo/>.

OTHER

Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and you should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year unless you are otherwise notified. More information about DEC permits may be found at our website, www.dec.ny.gov, under "Regulatory" then "Permits and Licenses." Application forms may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

Please feel free to contact this office if you have questions regarding the above information. Thank you.

Sincerely,

Glennys Romero Medina
Division of Environmental Permits
Region 3, Telephone No. (845)256-2250
Glennys.RomeroMedina@dec.ny.gov

Enclosure: Indiana Bat Project Review Fact Sheet

ecc: Sarah Pawliczak, NYSDEC Bureau of Wildlife
Brian Orzel, USACOE
Old Myers NY LLC, Applicant
TRC Companies, Project Contact