



Office:
270 Mansion Street
Coxsackie, NY 12051
Phone (518) 731-5544
Fax (518) 731-5520
info@greenelandtrust.org

Web Site
www.greenelandtrust.org

Jill Knapp, Executive Director

Board of Directors

Bob Knighton, *President*

Hal Brodie, *Vice president*

Margaret Snyder, *Secretary*

Janet Angelis, *Treasurer*

Eric Rasmussen

Rich Guthrie

Dennis Lucas

Larry Federman

James Coe

Denise Hartman

Mission Statement

To preserve and protect significant natural and cultural resources in and around Greene County, New York.

The Trust's goal is to provide substantial public benefit in identifying and protecting important resources while demonstrating a flexible and exemplary partnership with all stakeholders.



The accreditation seal is awarded to land trusts meeting the highest national standards for excellence and conservation permanence.

Hon. Kathleen H. Burgess, *Secretary*
New York State Board on Electric Generation Siting
Three Empire State Plaza
Albany, New York 12223-1350

July 5, 2018

Subject: Case 17-F-0619 – Application of Hecate Energy Greene – Preliminary Scoping Statement

Dear Secretary Burgess:

The Greene Land Trust (“GLT”) appreciates the opportunity to comment on the Preliminary Scoping Statement (“PSS”) filed by Hecate Energy Greene (“Hecate”). Hecate’s application to construct a 50 MW solar farm is of great concern to GLT, particularly with respect to its proposed location on over 900 acres of agricultural, grassland, and other habitat in the Coxsackie Flats area.

GLT was established in 2004 as a 501(c)(3) not-for-profit corporation. Its formation was prompted by issues relating to habitat in the Coxsackie Flats. In 2003, during environmental impact assessments of the Greene County Industrial Agency’s (GCIDA) Greene Business & Technology Park project, local, state and federal environmental groups raised the issue of impacts to the habitats of several bird species of concern, primarily the Northern Harrier and the Short-Eared Owl, but also Upland Sandpiper, Grasshopper Sparrow, Eastern Meadowlark and Bobolink.

A plan to mitigate the impacts of the business park development provided for the permanent protection of over 300 acres of fields, forests and riparian wetlands for habitat. Recognizing the need for an organizational structure that would insure long term protection and management of the habitat lands, the Greene County Soil and Water Conservation District (“GCSWCD”) and GCIDA funded the establishment of the Greene Land Trust. Accordingly, GLT is now managing over 300 acres of habitat in the Coxsackie Flats in an attempt to preserve habitat for the various grassland species.

Since then, the Trust has worked with a wide range of partners to facilitate a balance between sound development and effective preservation in Greene County. GLT has been accredited by the Land Trust Alliance and counts among its members several individuals with expertise in local bird and habitat issues.

The Greene County Grassland Habitat Management Plan (“Grassland Management Plan”) provides important context for the concerns of GLT. The Grassland Management Plan was developed in 2014. It was initiated by GCSWCD, funded by NYS Department of Environmental

Conservation and completed with the advice of the Greene County Habitat Advisory Committee. Its primary authors were K. Strong, R. VanSchaack and I. Haeckel. The Grassland Management Plan can be found on GLT's website at <https://www.greenelandtrust.org/images/stories/PDF/GreeneCountyGrasslandPlanFINAL6-20-2014.pdf>. It is worth quoting a somewhat lengthy passage from pages 12-13 of the Grassland Management Plan:

Grasslands in the transportation corridor between the Town of New Baltimore and the Village of Catskill have become prime targets for large-scale industrial, commercial, and residential development in recent decades. Development pressure, loss of farmland, changes in farming technology, habitat fragmentation, and succession to forest have all contributed to grassland habitat loss in the county. For example, farm acreage in Greene County has decreased by 87% since 1900 and there has been a 75% decrease since 1950 (see Table 2-2 for references).

As a result of extensive habitat loss in the past 40-50 years throughout New York, the statewide decline of various grassland bird species ranges from 70-90% according to NYS Breeding Bird Atlas data. Grassland birds have specific habitat requirements that must be met or populations will continue to decline and ultimately be lost from our area. The most important and challenging habitat requirement of grassland birds may be the need for contiguous, large areas of open grasslands in a grassland landscape. Some species, such as the Northern Harrier and Short-eared Owl, need large acreages of contiguous, or connected, grassland habitat for breeding and hunting; for example, Northern Harrier home ranges in the literature range from 420 ac – 37,000 ac (Smith et al. 2011). Major threats to grassland habitat include the following:

1. Land-use changes from farmland and open space to large-scale industrial, commercial, and residential developments along the major transportation corridor in eastern Greene County. Diverse factors at the root of this trend include the availability of cheap open land, increased interest from downstate developers as land availability decreases in that region, the presence of municipal water and sewer infrastructure, interest and sometimes necessity among large landowners to sell land and relieve their substantial NYS property tax burden, and the decreased viability of farming as a profitable enterprise in the area.
2. Habitat fragmentation, when grasslands are divided into progressively smaller patches resulting in less suitable habitat size, as well as new barriers to wildlife movement between grasslands.

The Hecate solar farm poses precisely the threat about which the Grassland Management Plan expressed concern. Of the 933-acre facility area, Hecate indicates that about 400 acres will be “converted to permanent features associated with the Facility such as panel arrays, access roads, and ancillary features such as a substation.” PSS, p. 92. Thus, the facility will actually use almost 400 acres of habitat, making that acreage unusable for species such as the Northern Harrier and Short-Eared Owl, and will fragment nearly 1,000 acres, rendering that acreage potentially unusable by those species.

Of even greater concern is the fact that Hecate is not the only solar farm planned for this area in the Cocksackie Flats. The Flint Mine Solar project (another Article 10 proceeding) is

a proposed 100 MW solar farm with a facility area of nearly 2,000 acres, almost half of which will be converted to permanent facilities, further using and fragmenting the remaining habitat. The Grassland Management Plan notes on page 11 that: "With nearly 10,000 acres of these open habitats, eastern Greene County is one of the few remaining places in the Hudson Valley where large grassland and agricultural areas persist." The two proposed solar farms together will use or fragment nearly one-third of this remaining habitat.

Under these circumstances, the Greene Land Trust strongly urges the Siting Board to consolidate its consideration of these two projects so that the Siting Board can not only consider the cumulative impacts of these projects, but also render an appropriate decision simultaneously on the two projects that addresses those cumulative impacts. Further, the Greene Land Trust requests that the Siting Board require both Hecate and Flint Mine Solar to perform literature searches and studies to answer questions concerning the impacts of the proposed habitat destruction and fragmentation on the harrier, owl and other grassland species.

On page 113 of the PSS, Hecate states that: "If protected grassland birds are determined to be present, the Applicant will coordinate with the NYSDEC per 16 NYCRR Part 182 and a specific mitigation plan will be developed. Mitigation may include creation, enhancement and/or preservation of habitat through a conservation easement or purchase in fee title." It is not clear that mitigation of the habitat destruction and fragmentation that will be occasioned by these two projects is possible and the Greene Land Trust is concerned that its own ongoing efforts to conserve habitat in the Coxsackie Flats area will be rendered futile. The burden of demonstrating that any proposed mitigation will be effective and sufficient must be placed on the developers and they must be required to come forward with information sufficient to demonstrate that such mitigation is possible. This demonstration is required by NYSDEC's regulations on Endangered and Threatened Species, which GLT believes require an incidental take permit for the type of activity proposed in this application, due to the impact of construction and operation of the proposed facility on the Northern Harrier and Short-Eared Owl. In order to obtain such a permit, a developer must develop a mitigation plan and demonstrate that the mitigation plan "will result in a net conservation benefit to the species in question." 6 NYCRR 182.12(a)(3).

In addition to these overriding concerns, the Greene Land Trust has the following comments on the PSS:

Section 4.11.2 – The PSS indicates that the application will include a lighting plan. The application should also then include an analysis of the potential impacts of any lighting on grassland species, including, but not limited to, the Northern Harrier and the Short-Eared Owl.

Section 4.13.1 – The application should include proposed post-construction studies to determine the impact of construction and operation of the facility on the various grassland species, including, but not limited to, the Northern Harrier and the Short-Eared Owl.

Section 4.22.1.2 – Delete all birds from the list of mammals.

Section 4.22.1.4 – Pages 95 and 96 indicate that the New York endangered Short-Eared Owl and the New York threatened Northern Harrier "may occur within the Facility Area." NYSDEC's and Hecate's own surveys have shown that these species are present in the Facility Area. This should be definitively stated. Also this section lists migratory birds

identified on the USFWS Birds of Conservation Concern. The PSS should also review NYSDEC's list of NYS Species of Greatest Conservation Need to identify species of concern. In addition, the PSS should review the following documents: Audubon's 2007 A State of the Birds Report, http://www.audubon.org/sites/default/files/documentns/sotb_cbid_magazine.pdf and Audubon's Birds and Climate Change Report, <http://climate.audubon.org/>.

Section 4.22.2.1 – General Wildlife Habitat – The plant community and wildlife habitat characterization should use data developed by Hudsonia, Biodiversity Assessment Manual for the Hudson River Estuary Corridor, Erik Kiviat and Gretchen Stevens, 2001, New York State Department of Environmental Conservation.

Section 4.22.2.3 – Avian Resources – The PSS indicates that data from the Austerlitz BBS route will be included in the application. The application should also include data from the Catskill route. Data from NYSDEC's decade long winter raptor survey in this area should also be included in the application. The PSS indicates that NYSDEC recommended additional breeding bird surveys and wintering raptor surveys. GLT supports that recommendation. The surveys should encompass the entire Cocksackie Flats area, not just the Facility Area, and should be implemented pre-construction, during construction and post-construction. It is important to determine the impacts of the construction of a facility of this size on the entire grassland habitat to determine if construction and operation of this facility has impacts beyond the facility itself, particularly on the Northern Harrier and Short-Eared Owl. It is possible, if not likely, that the destruction of habitat in the Facility Area will discourage these species from occupying a much wider area. This kind of information is important, not only for this project, but for any future projects of this type.

Section 4.22.2.6 – Agricultural Resources – The application should indicate how many acres of prime farmland soils and soils of statewide significance will be impacted or converted from agricultural use.

Section 4.22.3.2 – Mammals – The PSS indicates that “forested clearing will be minimized to the greatest extent practicable.” GLT notes that non-forested lands include agricultural and grassland habitat. Balancing the use of forested and non-forested land is necessary.

Sections 4.22.3.3 and 4.22.3.4 – Avian Resources and State and Federal Endangered Species – Both of these sections indicate that mitigation will be necessary if protected grassland birds are determined to be present. These species have already been determined to be present. Any mitigation plan must demonstrate a net conservation benefit and must provide funding for the long-term maintenance of any mitigation areas as grassland habitat.

Thank you for your consideration of these comments in the development of a final PSS.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Knighton". The signature is fluid and cursive, with the first name "Robert" and last name "Knighton" clearly distinguishable.

Robert Knighton
President, Greene Land Trust