



Office of
Renewable
Energy Siting

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October 17, 2022

Michael Belikoff
Brookside Solar, LLC
292 Madison Ave, 15th Floor
New York, NY 10017
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RE: Matter No. 21-00917 - NOTICE OF INCOMPLETE APPLICATION
Executive Law §94-c Permit Application of Brookside Solar,
LLC, for the proposed Brookside Solar Facility, located in
the Towns of Burke and Chateaugay, Franklin County (100 MW)

Dear Michael Belikoff:

On April 19, 2022, a Notice of Incomplete Application (Notice) was issued by the Office of Renewable Energy Siting (the Office or ORES) after a preliminary review of the Permit Application submitted by Brookside Solar, LLC (Applicant) on February 18, 2022 (the Application).

On August 16, 2022, Brookside Solar, LLC filed a supplement to the Application. Following review of this submission, the Office has determined that the Application, as supplemented, remains incomplete. A short list of the areas of incompleteness and a description of the remaining deficiencies is set forth in **Attachment A** to this letter, pursuant to 19 NYCRR §900-4.1(d).

The Applicant should review the attached information and provide a supplemental response to the Office. The supplement should include both a clean and redline version of all updated exhibits, and a full set of plans submitted electronically with revisions clouded. The Application shall remain incomplete until all requested information is received by the Office, and a partial submission of the requested material shall not change the incomplete status in compliance with 19 NYCRR §900-4.1(e). Failure to respond in writing to the Office's notice of incomplete application may result in the Application being deemed withdrawn without prejudice in compliance with 19 NYCRR §900-4.1(f).

Please note that the Applicant is required to serve a copy of its supplemental response on all entities entitled to receive a copy of the Application pursuant to 19 NYCRR §900-1.6. The Office is

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committed to responding as expeditiously as possible to your complete supplemental response.

cc: Service List

ATTACHMENT A**Areas of Incompleteness and Description of Specific Deficiencies
ORES Matter No. 21-00917 Brookside Solar Facility**

The information requested by Staff in its April 19, 2022, NOIA is necessary for Staff to complete its review and make a recommendation to approve or deny the requested Siting Permit. Based upon review of the supplemental Application materials and completeness consultation with the Applicant, the following revisions are required to render a determination on application completeness:

Exhibit 5 - Design Drawings

1. 19 NYCRR §900-2.6(f)(1)(i)(b) requires the site plans to include "...temporary road improvements for component deliveries..." Design Drawings PV-C.01.02 and PV-C.01.04 include a note stating: "[p]aved road continuation and tree clearing by the County Highway Department." The Application Supplement states: "...the Town of Chateaugay and County Highway Department will be making road improvements." However, Stuart Road belongs to the Town of Burke, and Martin Road belongs to the Town of Chateaugay. As requested by Staff in the April 19, 2022, NOIA, please provide:
 - a. Evidence to confirm whether the County has entered into a shared services agreement to perform this work. Alternatively, please provide evidence to confirm whether the towns are willing to perform this work and whether this is included in the host community agreement, with updates to the relevant exhibits where necessary (e.g., adding any new stream crossings to Exhibit 16 in compliance with 19 NYCRR §900-2.17(b)(4)).
 - b. An updated map of the Facility site provided pursuant to 19 NYCRR §900-2.5(a) confirming whether any easements are required.
 - c. Confirmation that the reconstructed road follows the same layout as the previous road, that the assumed setbacks have not changed, and that the reconstructed road will have the same 18-foot width as the existing road.

- d. Confirmation as to whether associated tree clearing will be performed in the site preparation phase.
2. Pursuant to 19 NYCRR §900-2.6(f)(1)(j), the site plans are required to include "[a]ny berms, retaining walls, fences and other landscaping improvements..."
 - a. Please supplement the application with site plans indicating where the two types of proposed seed mixes, the Northeast Native Wildflower Grass Mix, and the Solar Farm Grass Seed Mix, are to be used.
 - b. The Solar Farm Grass Seed Mix note in Exhibit 5 Sheet PV-C.14.01 and Appendix 8-1. Visual Impact Assessment (VIA) states the predominant seed mix is both native and "considered favorable for wildlife habitat (VIA pg. 66)." However, the Solar Farm Grass Seed Mix includes only 3% native seed by weight, with little wildlife habitat. Please revise the proposed predominant seed mix detailed on PV-C.14.01 to meet the goals outlined in Exhibits 5 and 8.

Exhibit 8 - Visual Impacts

1. 19 NYCRR §900-2.9(b)(1) requires "...[a] line-of-sight profile shall also be done for resources of statewide concern located within the VIA study area." As requested by Staff in the April 19, 2022, NOIA, please address the following:
 - a. Table 8-4 identifies National Register Eligible sites with potential visibility. Please provide additional line of sight profiles from 474 Jamison Line Road and 1207 County Route 23.
 - b. Please provide photo simulations for the remaining seven viewpoints with proposed plantings (VP5, VP9, VP13, VP23, VP33, VP38, and VP44) representing the appearance within 1-2 years post-construction.
 - c. Please revise Exhibit 8, Attachment 6, or the cover page of each photo simulation to include a table which indicates pre- and post-mitigation contrast ratings and identify any reduction to the contrast rating through the inclusion of vegetative screening as mitigation.

Exhibit 12 - NYS Threatened or Endangered Species

1. 19 NYCRR §900-2.13(d) requires "...[a]n identification and evaluation of avoidance and minimization measures incorporated into the facility design, as well as any unavoidable potential impacts to NYS threatened or endangered species or species of special concern. Adverse impacts shall... include an assessment of the acreage and/or an estimate number of individual members of each such species affected." As requested by Staff in the April 19, 2022, NOIA, please address the following:
 - a. The Grassland Breeding Bird Survey indicates that there is active breeding habitat for grassland birds within the Facility boundary. Currently, project components are proposed to be located in this area. Please describe the avoidance and minimization efforts taken to design the Facility in consideration of known breeding habitat.
 - b. Please revise Exhibit 12 and Appendix 12-5 to provide a thorough discussion of the proposed laydown area, the timing and duration of impacts, and update the estimated take of breeding habitat. Update Appendix 12-5 Figure 3 to include the laydown area.
 - c. For impacts that cannot be avoided or minimized, please describe the proposed mitigation and how the mitigation will offset impacts to the affected species.

2. 19 NYCRR §900-2.13(f) requires "...[a] Net Conservation Benefit Plan prepared in compliance with section 19 NYCRR §900-6.4(o)..." Mitigation parcels must be located a minimum of 250 meters from wind turbines, therefore the proposed offsite mitigation parcels do not appear to meet the requirements to provide a net conservation benefit to the species. As requested by Staff in the April 19, 2022, NOIA, please provide a detailed management action plan and description for all land necessary to meet the mitigation acreage of 131.6 acres, as outlined in the Office's Determination of Occupied Habitat, Incidental Take, and Net Conservation Benefit on September 13, 2021. Please provide shapefiles for all mitigation and management locations.

Exhibit 13 - Water Resources and Aquatic Ecology

1. 19 NYCRR §900-2.14(b) (6) requires “[i]f the applicant cannot avoid all impacts to NYS protected waters, an explanation of all efforts the applicant made to minimize the impacts, including a discussion of all best management practices used during design...” As requested by Staff in the April 19, 2022, NOIA, please address the following:
 - a. Please describe the construction activities associated with crossing the Class C(t) stream S-WCR-2 within the Limits of Disturbance (LOD), categorized as “road improvements by others” on Revised Design Drawing PV-C.04.02, and as “paved road” with a note stating: “[p]aved road continuation and tree clearing by the County Highway Department” on PV-C.01.02. Please clarify construction activities within both S-WCR-2 and its 50-foot buffer and revise the corresponding Exhibit 5 design drawings for consistency with the revised narrative.
 - b. Per 19 NYCRR §900-2.14(b) (6) (iv) and (vi), please provide a thorough description of the design measures taken to avoid and minimize tree clearing (including “selective tree clearing”), grading, and related activities within 50-feet of streams S-JJB-2 and S-WCR-2, to the maximum extent practicable. Please revise the corresponding Exhibit 5 design drawings for consistency with the revised narrative. In addition, please describe how the facility design avoids and minimizes impacts to slopes and erosion potential of NYS protected waters, including a discussion of how low height stabilizing vegetation with fine root biomass will be maintained. Include an analysis for the impacts from construction activities, such as tree clearing (including “selective tree clearing”) on slope, shade, and stabilization, and describe vegetation that will remain after clearing is completed. Please reference midstory vegetation and stream shading potential of low height stabilizing vegetation and effects on stream temperature from removal of trees and revise the corresponding Exhibit 5 design drawings for consistency with the revised narrative.

Exhibit 16 - Effects on Transportation

- 1.19 NYCRR §900-2.17(a)(1) requires a conceptual site plan depicting all Facility driveway and roadway intersections, showing “[h]orizontal and vertical geometry, the number of approach lanes, the lane widths, [and] shoulder widths...” As requested by Staff in the April 19, 2022, NOIA, please provide additional horizontal and vertical data for driveway / access road intersections in the Facility including, but not limited to, profiles, stationing, curve data, bearings, vertical grades, etc.