

PRE-CONSTRUCTION NOTIFICATION (PCN)

USACE NATIONWIDE PERMIT #51

**WATKINS GLEN SOLAR ENERGY CENTER, LLC
TOWN OF DIX
SCHUYLER COUNTY, NEW YORK**

Prepared For:

Watkins Glen Solar Energy Center, LLC
700 Universe Blvd
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(862)296-3463



Prepared By:

TRC
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OCTOBER 2021



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Mr. Steve Metivier
US Army Corps of Engineers
Department of the Army
Regulatory Branch – Buffalo District
1776 Niagara Street
Buffalo, NY 14207

Sent via email to: CENAN-R-Permit-App@usace.army.mil

**RE: Watkins Glen Solar Energy Center, LLC
USACE Nationwide Permit #51 - Pre-Construction Notification
Town of Dix, Schuyler County, NY**

Dear Mr. Metivier,

This Pre-Construction Notification (PCN), under the U.S. Army Corps of Engineers (USACE) Nationwide Permit (NWP) program, is being submitted on behalf of Watkins Glen Solar Energy Center, LLC (the Applicant) for approval of jurisdictional impacts associated with the Watkins Glen Solar Energy Center Project (Project), a new 50 megawatt (MW) ground-mounted solar system proposed within Schuyler County, New York. Based on the proposed use and type of impacts anticipated, the Project is eligible for NWP 51 for Land-Based Renewable Energy Generation Facilities.

The Applicant submitted an Application for a Certificate of Environmental Compatibility and Public Need under Article 10 of the Public Service Law (PSL; Case No. 17-F-0595) on October 13, 2020. On February 9, 2021, the Article 10 Application was deemed complete under PSL § 164. On April 13, 2021, the Applicant provided written notice to the DPS and the Office of Renewable Energy Siting (ORES) stating that the Project was electing to be subject to the new Executive Law 94-c (Section 94-c) and will transfer said Application to ORES. This transfer has occurred and the Project is currently under review by ORES. This Project also requires a Section 401 Water Quality Certification. The Project's jurisdictional impacts are solely for the construction of a new major electric generating facility. As such, it does not qualify for a New York State Department of Environmental Conservation (NYSDEC) Blanket Water Quality Certification (WQC) as outlined in Section H of NWP 51. A Pre-filing WQC request was filed with ORES on September 3, 2021 and is included in this application package.

As described below, the Project will not disturb more than 0.10 acre of wetland area. Therefore, neither mitigation nor a PCN for NWP 51 is required for proposed jurisdictional impacts. Nonetheless, the permittee requests USACE review to confirm applicability of NWP 51. A Preliminary Jurisdictional Determination was issued for the Project by the USACE on October 23, 2020. The Applicant would like to have an Approved Jurisdictional Determination for wetlands W-TC-12, W-DL-3, and W-DL-2 as they are believed to be non-jurisdictional to the USACE.



The PCN has been formatted to be consistent with guidance provided by the Public Notice issued by the USACE on March 21, 2017.¹ The Joint Application Form is included herein as Appendix A. Appendix B contains the civil engineering (construction) plans, detailing the nature of impacts and limits of disturbance. Appendix C includes agency correspondence confirming the satisfactory resolution of issues associated with natural heritage (R-T-E species and habitats). As also noted in Appendix C, archaeological surveys have been concluded to satisfy a request from the New York State Historic Preservation Office (SHPO) and the requirements of Section 94-c (see Section 2.2 below). The wetland and waterbody delineation report is included in Appendix D.

1.0 PRE-CONSTRUCTION NOTIFICATION

As required under the Public Notice of March 21, 2017, the following information is being provided as part of this PCN:

1. Name, Address, and Telephone Number of the Prospective Permittee

Watkins Glen Solar Energy Center, LLC
c/o Keddy Chandran
700 Universe Blvd
Juno Beach, FL 33408
561.691.7274
keddy.chandran@nexteraenergy.com

2. Location of the Proposed Activity

The Project will be located on land leased from an owner of private property in the Town of Dix, Schuyler County, New York. The land is in the vicinity of the following roads: Bronson Hill Road, Baker Hill Road, Old Joe Road, and Hedden Road.

3. Applicable Nationwide Permit

The proposed activity includes tree clearing and siting of solar panels within wetlands, and a stream crossing. The activity will permanently impact 50 linear feet of a USACE-regulated stream channel due to access road construction and culvert installation. As such, the Project qualifies for NWP 51 – Land-Based Renewable Energy Generation Facility Projects.

4. Description of Proposed Activity

The Project is a proposed 50 MW solar photovoltaic project located in the Town of Dix in Schuyler County, NY. The area in which the Project will be developed (the Project Area) primarily consists of active agriculture, with some forested lots. There are streams and

U.S. Army Corps of Engineers. March 21, 2017. Final Regional Conditions, Water Quality Certification, and Coastal Zone Concurrence for Nationwide Permits in New York. Accessed on October 30, 2020: <http://www.nan.usace.army.mil/Portals/37/docs/regulatory/publicnotices/Regional%20Gen%20Permit/PN-LRB%20NAN%20FinalRegionalConditionsWQC%20CZMforNYdated%2021-MAR-2017.pdf?ver=2017-03-22-111131-070>

wetlands throughout the Project Area. However, no impacts to wetlands under the jurisdiction of the USACE are proposed.

The Project will require 96 acres of tree clearing to accommodate the solar photovoltaic (PV) system and to prevent shading. Within delineated wetlands W-TC-12, W-DL-2, and W-DL-3, a total of approximately 0.83-acres of trees will be cleared and grubbed for solar panel installation. This will be done using Type I Clearing Methods. Type I Clearing consists of clearing all woody plants, including low-growing species. Ground disturbance is proposed to remove stumps and roots. These methods will ensure that the woody plants do not hinder access to construction activities (i.e., within access roads). The wetlands that will have trees removed are believed to be non-jurisdictional to the USACE. No impacts to wetlands under the jurisdiction of USACE are proposed as part of the Project.

Stream impacts are related to the construction of an access road, which will involve minor grading of the stream bed and culvert installation. Impacts will be minimized by use of temporary sandbag dams with a water bypass pump during culvert installation in the event of wet conditions. The pumped water will be discharged down-stream of the work area using energy dissipation at the discharge location to prevent any scour. Dirty water will be directed into a silt bag, settling basin, or grassy area located at least 100 feet from the stream channel. All temporary erosion control materials (e.g., silt fencing) will be removed once the ground has been stabilized. Any landscape fabric left in place will be natural fiber to facilitate biodegradation. If determined in the field during construction that this method is not feasible, an alternative method will be selected from the Blue Book in consultation with the Project Environmental Monitor. Project civil site plans are provided in Appendix B.

Any potential impacts in these areas will be restored to pre-construction contours and elevations after construction. The useful life of the energy center is approximately 30 years, following which, it is anticipated the Project will be decommissioned, and regrowth will not be limited by the Applicant.

5. Wetland and Waterbody Impacts

A wetland and waterbody delineation of the Project Area was performed by TRC wetland biologists on June 6 through June 8, 2017 and April 22 through April 26, 2019. The results of the delineation are presented in the Wetland and Waterbody Delineation Report (Appendix D). Table 1 below provides additional details about proposed impacts to Project Area wetlands and waterbodies. Figure 4 within Appendix D shows the locations of each wetland and waterbody boundary.

Wetlands

TRC delineated 34 wetlands within the Project Area. As described above, there will be tree clearing impacts to wetlands W-TC-12, W-DL-2, and W-DL-3.

Waterbody

TRC delineated 25 waterbodies (stream segments and drainage ditches) within the Project Area (Figure 4), 24 of which are perennial or intermittent. Five of the delineated



resources coincide with NYSDEC Class C streams, encompassing two mapped NYSDEC waterways on the Project Area. Proposed impacts to streams involve a single stream crossing culvert and associated grading. One stream will be impacted by culvert installation to facilitate the construction of an access road. This stream is not associated with a NYSDEC protected stream.

Table 1. Wetland Impact Summary Table

Wetland ID	Classification ¹ / Covertypes	Proposed Activity	USACE Jurisdictional Wetland Impact Type and Size	Feature Latitude/Longitude
W-TC-12	PFO	Tree Clearing and Stump Removal	0.36-acre	42.338, -76.954
W-DL-2	PFO	Tree Clearing and Stump Removal	0.30-acre	42.332, -76.953
W-DL-3	PFO	Tree Clearing and Stump Removal	0.17-acre	42.333 -76.953
Total Wetland Impacts			0.83-acre	
¹ <i>The Classification of Wetlands and Deepwater Habitats of the United States, Second Edition (Federal Geographic Data Committee 2013) Cowardin et al., 2013 categories include: Palustrine Emergent Marsh (PEM), Palustrine Unconsolidated Bottom (PUB), Palustrine Scrub-Shrub (PSS), and Palustrine Forested (PFO).</i>				

Table 2. Stream Impact Summary Table

Stream ID	Stream Flow Regime	Proposed Activity	Temporary USACE Jurisdictional Stream Impact Size	Permanent USACE Jurisdictional Stream Impact Size	Feature Latitude/ Longitude
S-DL-6	Intermittent	Access Road, Culvert and Grading	7'	50'	42.330, -76.949
Total Waterbody Impacts			7'	50'	-



A Stormwater Pollution Prevention Plan (SWPPP) is being prepared for the Project for coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Discharges from Construction Activity (GP-0-20-001). The SWPPP is being prepared by the Applicant in accordance with the New York State Standards and Specifications for Erosion and Sediment Control (SSESC; NYSDEC 2016) and the New York State Stormwater Management Design Manual (NYSDEC 2015). In accordance with GP-0-20-001, documented Site inspections will be performed to ensure that all required erosion and sediment control measures are in place, properly positioned, and in good condition. These inspections will be continued for the duration of the construction phase, or until earth-disturbing construction activities have been discontinued and acceptable ground cover has been established. The Project is not located in a Municipal Separate Stormwater System (MS4); therefore, a MS4 review and approval is not required for this Project. A Notice of Intent (NOI) will be submitted to the NYSDEC no less than five days prior to construction.

6. Applicable Mitigation

As there are no permanent impacts to wetlands, compensatory mitigation is neither proposed nor required. Best management practices (BMPs) and all applicable NWP conditions shall be followed to ensure impacts are avoided and minimized and to ensure water quality is maintained.

7. Federally and State-Listed Species and/or Habitat Impacts

On behalf of the Applicant, TRC initiated consultation with the U.S. Fish and Wildlife Service (USFWS; consultation Tracking Number: 05E1NY00-2019-SLI-0711). An Official Species List was requested through the Information for Planning and Consultation (IPaC) online system on February 1, 2019. One federally-listed threatened species, the Northern Long-eared Bat (*Myotis septentrionalis*), was identified with potential to occur in the vicinity of the Project. An updated Official Species IPaC List was requested on March 12, 2020, July 23, 2020, and June 22, 2021. They did not list any threatened or endangered species or critical habitats within the Project Area (see Appendix C).

Based on a review of the NYSDEC Environmental Resource Mapper (ERM), completed on June 22, 2021 there are no known occurrences of State-listed RTE species in the vicinity of the Project (Appendix C). The New York Natural Heritage Program (NYNHP) was consulted to request a review and confirmation of the latest NYNHP records for the presence of rare or State-listed plants, animals, or significant natural communities in vicinity of the Project. A NYNHP response was received on May 15, 2019, indicating that there are no records of rare or State-listed animals or plants, or significant natural communities at the Project Area or in its immediate vicinity (Appendix C). The Applicant has completed extensive coordination and discussion with the Office of Renewable Energy Siting (ORES) and NYSDEC throughout the Section 94-c process and in preparation of the ORES-approved Certificate Conditions for the Project, which include provisions for protection of listed species.

8. Impact on Cultural Resources

According to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) SHPO Cultural Resource Information System (CRIS) online database, the Project



Area is not located within an archaeologically sensitive area. There were also no National Register Building Sites or other structures/buildings identified in the CRIS mapper within the Project Area.

Consultation with SHPO was initiated via CRIS on April 18, 2019, and a response was received from SHPO on June 5, 2019, requesting a Phase IA Archaeological Survey and Sensitivity Assessment (see Appendix C). Following the completion of Phase 1A research and fieldwork, TRC submitted the Phase 1A Report on October 19, 2019. OPRHP concurred with TRC's recommendations in the Phase 1A Report that Phase 1B archaeological testing be conducted where significant proposed ground disturbance fall within areas characterized as having moderate or high archaeological sensitivity. The Phase 1B Report was submitted to OPRHP on October 5, 2020. The Applicant has committed to immediately notifying the USACE District Engineer if any previously unknown historic, cultural, or archeological remains and artifacts are discovered during the installation of the Project. On October 23, 2020 OPRHP concluded the Project will have no adverse impacts on archaeological resources and no further studies are needed. (See Appendix C).

9. Applicability of Wild and Scenic Rivers

There are no National Wild and Scenic River Systems, or rivers officially designated by Congress as a "study river" for possible inclusion in the system within the vicinity of the Project Area.

10. Applicability of Section 408

This activity will not alter or temporarily or permanently occupy or use a USACE federally authorized civil works project. Therefore, Section 408 is not applicable.

2.0 COASTAL ZONE MANAGEMENT CONSISTENCY DETERMINATION

The proposed Project is not located within the New York coastal area and therefore the New York State Department of State (NYS DOS) is not required to issue a Coastal Zone Management (CZM) consistency determination.

3.0 CONCLUSIONS

The proposed activity will result in permanent impacts to 50 linear feet of one stream for the installation of culverts and associated grading for access road construction. As such, the Project meets the requirements of NWP 51 – Land Based Renewable Energy Generating Facility Projects, with no mitigation required.

By submission of this application, the project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of their and my knowledge and belief. In the event a Pre-Filing Meeting Request is not deemed necessary, the project proponent hereby requests that the certifying authority review and take action on this CWA Section 401 certification request within the applicable reasonable period of time.



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On behalf of the Applicant, TRC is requesting review and approval of the Project as described herein and on the associated figures under the USACE NWP 51.

If you have any questions regarding the Project or the request herein, please contact me at TRC by calling (315) 715-1642 or via email at HEffler@trccompanies.com. Thank you for your attention to this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Hayley Effler".

Hayley Effler
TRC – Senior Project Manager

cc: William Boer, Watkins Glen Solar Energy Center, LLC

Attachments:	Figure 1	Site Location Map
	Figure 2	Delineated Features with Proposed Impacts
	Appendix A	Joint Application Form/Water Quality Certification Form
	Appendix B	Engineering Drawings
	Appendix C	Agency Correspondence
	Appendix D	Wetland and Waterbody Delineation Report
	Appendix E	USACE Preliminary Jurisdictional Determination