



**Flat Creek Solar Project
Towns of Canajoharie and Root, Montgomery County
Permit Application No. 23-00054**

**Wetlands Jurisdictional Determination
July 1, 2024**

Pursuant to § 900-1.3(e)(2), Flat Creek Solar NY LLC provided an updated draft wetlands delineation report entitled “Wetland and Stream Delineation Report”, and dated May 2024, as well as associated photographs and GIS shapefiles received May 21, 2024 for the proposed Flat Creek Solar Project located in Montgomery County, New York.

Pursuant to § 900-1.3(e)(4), the Office of Renewable Energy Siting (the Office or ORES), in consultation with the New York State Department of Environmental Conservation (NYSDEC), hereby provides specific jurisdictional determinations for state-regulated wetlands identified in the draft wetland delineation report and shapefiles in Attachment A. The information provided in Attachment A will be necessary for developing Exhibit 14 (§900-2.15) in support of an application to the Office for a major renewable energy facility.

Please note that this determination only applies to major renewable energy facilities as defined by Section 94-c of New York Executive Law and 19 NYCRR Part 900. This determination does not cover other projects, nor does it cover determinations under other applicable federal, state, or local jurisdictions, such as the Army Corps of Engineer’s regulatory program under Section 404 of the Clean Water Act. If the Applicant has not already done so, the Office recommends the Applicant request a meeting with the US Army Corps of Engineers as soon as possible regarding their potential regulatory jurisdiction over wetlands onsite.

This determination is valid for a period of five years from the date of this letter. After five years, determinations and delineations will be considered expired and subject to change until a new determination or delineation is conducted and the Office extends this determination or issues a new jurisdictional determination.

As a reminder, with respect to both wetlands and waterbodies, the Applicant must first provide a written explanation of how the Facility design avoids impacts to identified natural resources (Exhibit 13 Water Resources and Aquatic Ecology, 19 NYCRR §900-2.14(b)(5)) (Exhibit 14 Wetlands, 19 NYCRR §900-2.15(e)). For impacts that cannot be avoided, the Applicant must then provide a written explanation of all efforts taken to minimize impacts of the proposed Facility to the relevant identified natural resources (Exhibit 13 Water Resources and Aquatic Ecology, see e.g., 19 NYCRR §900-2.14(b)(6) and (c)) (Exhibit 14 Wetlands, 19 NYCRR §900-2.15(f)).

For impacts which cannot be avoided or minimized, the Applicant must provide the Office with sufficient information to determine whether impact(s) will be mitigated to the maximum extent practicable. While final details concerning proposed mitigation measures can be deferred to the required pre-construction mitigation plan for each resource area (Exhibit 13 Water Resources and

Aquatic Ecology, 19 NYCRR §900-2.14(b)(7) and Exhibit 14 Wetlands, 19 NYCRR §900-2.15(g)), a sufficient showing of proposed mitigation measures is required at the application stage for the Office, in consultation with NYSDEC, to make the required determinations in Executive Law 94-c.

Please include in Exhibit 14 an overview of the Office's jurisdictional determination issued in compliance with 19 NYCRR §900-1.3(e), including a summary table showing the total number and acreage of NYS-regulated wetlands and 100' adjacent areas within the Facility area and areas to be disturbed by construction, including interconnections.

CC: NYSDEC

Attachment A

Office of Renewable Energy Siting

Wetland specific jurisdictional determination for wetlands from draft wetland and waterbodies delineation report

Wetland Delineation ID ¹	Acreage	Cover Type	Category ²	State Wetland ID	Wetland Classification	Changes ³
W-ABL-06	8.48	PEM	Unmapped > 12.4 ac	NA	NA	
W-ABL-06	2.63	PFO	Unmapped > 12.4 ac	NA	NA	
W-DJB-02	0.18	PEM	Mapped	CA-5	3	
W-DJB-11	10.58	PFO	Unmapped > 12.4 ac	NA	NA	
W-DJB-11	8.67	PSS	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.1	PUB	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.14	PUB	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.28	PUB	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.02	PUB	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.59	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.13	PUB	Unmapped > 12.4 ac	NA	NA	
W-EES-06	13.36	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	1.07	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	2.47	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	4.04	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	58.17	PSS	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.89	PEM	Unmapped > 12.4 ac	NA	NA	

Wetland Delineation ID ¹	Acreage	Cover Type	Category ²	State Wetland ID	Wetland Classification	Changes ³
W-EES-06	0.07	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	1.28	PSS	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.36	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-06	0.23	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-08	0.04	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-09	0.04	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-12	16.68	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-12	2.18	PSS	Unmapped > 12.4 ac	NA	NA	
W-EES-12	.000004	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-12	0.002	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-12	0.004	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-13	14.63	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-26	1.69	PEM	Unmapped > 12.4 ac	NA	NA	
W-EES-26	11.01	PFO	Unmapped > 12.4 ac	NA	NA	
W-EES-26	0.58	PEM	Unmapped > 12.4 ac	NA	NA	
W-IBP-01	8.79	PFO	Unmapped > 12.4 ac	NA	NA	
W-IBP-01	3.92	PFO	Unmapped > 12.4 ac	NA	NA	
W-IBP-01	0.59	PSS	Unmapped > 12.4 ac	NA	NA	
W-IBP-01	2.43	PFO	Unmapped > 12.4 ac	NA	NA	
W-JMP-08	5.61	PEM	Mapped	CA-6	2	
W-JMP-08	0.21	PSS	Mapped	CA-6	2	
W-JMP-11	0.37	PFO	Unmapped > 12.4 ac	NA	NA	
W-JMP-12	1.76	PSS	Unmapped > 12.4 ac	NA	NA	
W-JMP-12	7.48	PEM	Unmapped > 12.4 ac	NA	NA	

Wetland Delineation ID ¹	Acreage	Cover Type	Category ²	State Wetland ID	Wetland Classification	Changes ³
W-JMP-13	0.61	PFO	Unmapped > 12.4 ac	NA	NA	
W-JMP-19	0.14	PFO	Unmapped > 12.4 ac	NA	NA	
W-JMP-19	0.01	PFO	Unmapped > 12.4 ac	NA	NA	
W-JMP-19	0.01	PFO	Unmapped > 12.4 ac	NA	NA	
W-MLM-03	6.99	PEM	Mapped	CA-5	3	
W-MLM-04	15.35	PFO	Mapped	CA-5	3	
W-MLM-04	3.55	PEM	Mapped	CA-5	3	
W-MLM-05	0.57	PFO	Mapped	CA-5	3	
W-MLM-06	0.05	PFO	Mapped	CA-5	3	
W-MLM-07	0.53	PFO	Mapped	CA-5	3	
W-MLM-10	30.11	PFO	Mapped	CA-1	3	
W-MLM-10	0.88	PEM	Mapped	CA-1	3	
W-NSD-05	0.83	PSS	Unmapped > 12.4 ac	NA	NA	
W-NSD-05	0.94	PUB	Unmapped > 12.4 ac	NA	NA	
W-NSD-05	8.56	PEM	Unmapped > 12.4 ac	NA	NA	
W-NSD-10	0.66	PEM	Unmapped > 12.4 ac	NA	NA	
W-NSD-10	1.05	PSS	Unmapped > 12.4 ac	NA	NA	
W-RDS-05	17.53	PFO	Unmapped > 12.4 ac	NA	NA	
W-RDS-05	3.16	PEM	Unmapped > 12.4 ac	NA	NA	
W-RDS-09	0.54	PFO	Unmapped > 12.4 ac	NA	NA	
W-RDS-10	0.41	PEM	Unmapped > 12.4 ac	NA	NA	
W-RDS-10	5.5	PFO	Unmapped > 12.4 ac	NA	NA	
Total Acres:	289.736					

Wetland Delineation ID ¹	Acreage	Cover Type	Category ²	State Wetland ID	Wetland Classification	Changes ³
<p style="text-align: center;">¹ ID assigned by applicant in draft wetland delineation report.</p> <p style="text-align: center;">² Includes mapped wetlands and unmapped wetlands with a total area greater than 12.4 acres in size.</p> <p style="text-align: center;">³Changes include any minor adjustments to features provided by the applicant</p>						