



## **FLAT CREEK SOLAR**

**Permit Application No. 23-00054**

**§ 1100-2.26 Exhibit 25**

**Other Permits and Approvals**

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## Acronym List

CRIS	Cultural Resources Information System
CWA	Clean Water Act
FAA	Federal Aviation Administration
LOD	Limit of Disturbance
IPaC	Information for Planning and Consultation
NOI	Notice of Intent
NWP	Nationwide Permit
NYSDEC	New York State Department of Environmental Conservation
NYSDOT	New York State Department of Transportation
OPRHP	Office of Parks, Recreation, and Historic Preservation
ORES	Office of Renewable Energy Siting and Electric Transmission
PJD	Preliminary Jurisdictional Determination
POI	point of interconnection
RUA	road use agreements
SHPO	New York State Historic Preservation Office
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
VIA	Visual impact assessment
WOTUS	Waters of the United States
WQC	Water Quality Certification

## **Glossary Terms**

<b>Applicant</b>	Flat Creek Solar NY LLC, a subsidiary of Cordelio Power LP, the entity seeking a siting permit for the Facility from the Office of Renewable Energy Siting and Electric Transmission (ORES) under Article VIII of the New York State Public Service Law.
<b>Facility</b>	Flat Creek Solar, a 300 MW solar generating facility located in the Towns of Root and Canajoharie, NY. The proposed Facility components to be constructed for the generation, collection, and distribution of energy for Flat Creek Solar include solar panel modules, electrical collection system, collection substation, point of interconnection (POI) switchyard, access roads, laydown/staging areas, and other ancillary facilities.
<b>Facility Site</b>	The participating parcels encompassing Facility components, which totals approximately 3,794 acres in the Towns of Canajoharie and Root, Montgomery County, New York (Figure 2-1).
<b>Study Area</b>	The Study Area for the Facility includes a radius of five miles around the Facility Site boundary, unless otherwise noted for a specific resource study or Exhibit. The 5-mile Study Area encompasses approximately 108,667 acres, inclusive of the approximately 3,794-acre Facility Site.
<b>Limit of Disturbance (LOD)</b>	The area to which temporary construction impacts will occur, totaling approximately 1,637 acres.

## **Exhibit 25: Other Permits and Approvals**

This Exhibit provides information required in accordance with the requirements of §1100-2.26 of the Article VIII Regulations.

### **25(a) Anticipated Federal Permits, Consents, Approvals, or Licenses**

The following federal or federally delegated permits, consultations, consents, approvals, or licenses are anticipated to be required for construction or operation of the Facility.

#### ***Federal Permits, Consents, Approvals, or Licenses***

Federal Aviation Administration (FAA):

- The Applicant used the FAA's Notice Criteria Tool to determine if the FAA Notice of Construction Form would be required for the Facility. Based on the finding of the FAA Notice Criteria Tool, included as Appendix 16-5, the proposed Facility does not trigger the need to consult with the FAA.

Additional information regarding FAA consultation requirements is provided in Exhibit 16, sections (e) and (f).

United States Army Corps of Engineers (USACE):

- Section 404 of the Clean Water Act (CWA), Individual Permit Program.
  - To initiate the Preliminary Jurisdictional Determination (PJD) process, the Applicant submitted a copy of the Facility's Wetland and Waterbody Delineation Report (Appendix 14-1), along with other required documents and a request for a boundary verification of the features presented in the report to Ryan Mayer, Biologist, Regulatory Branch Upstate New York Section of the USACE. On September 22, 2023, Ryan Mayer confirmed the USACE received the files.
  - The Applicant anticipates the need for Individual Permit coverage for the construction of the Facility. The Applicant will coordinate with the USACE prior to submittal of the Individual Permit application.
  - The Applicant intends to apply for coverage under Section 404 of the CWA in Q4 2025.

## Office of Renewable Energy Siting (ORES)

- Water Quality Certification (WQC), Section 401 of the CWA.
  - The Applicant anticipates the need for a WQC because, as previously stated, the Facility will be permitted under the NWP program for discharges of dredged or fill material into non-tidal Waters of the United States (WOTUS).
  - The Applicant anticipates applying for the WQC in Q4 2025. ORES will issue the Water Quality Certificate, see Exhibit 13(f).

## New York State Office of Parks, Recreation, and Historic Preservation (OPRHP), State Historic Preservation Office (SHPO)

- National Historic Preservation Act, Section 106 compliance
  - Because the Facility will require approval under the CWA, consultation for the Facility follows the Section 106 review process. The Applicant initiated formal consultation with the OPRHP and New York SHPO to develop the scope and methodology for cultural resources studies for the Facility. A copy of this correspondence is provided in Appendix 9-1.
  - To date, formal consultation with the SHPO/OPRHP and the St. Regis Mohawk Tribe THPO has included submissions through OPRHP's Cultural Resources Information System (CRIS) website consisting of the following technical documents for OPRHP review:
    - SHPO/OPRHP consultation initiated by the Applicant via CRIS on March 4, 2022.
    - SHPO/OPRHP requested Phase IA Archaeological Study on March 10, 2022.
    - SHPO/OPRHP responded that based on prior existing architectural surveys in the area, no architectural survey is requested for the Facility on March 10, 2022.
    - A Phase IA archaeological investigation was conducted, and the Phase IA report submitted to the SHPO/OPRHP on July 7, 2023.
      - SHPO/OPRHP requested revised desktop sensitivity maps in an email dated July 20, 2023.

- Revised map figures were submitted to SHPO/OPRHP on July 28, 2024.
- SHPO/OPRHP requested revisions to the Phase IA report in a letter dated August 15, 2023.
- A revised report was submitted to SHPO/OPRHP on December 1, 2023.
- SHPO/OPRHP concurred with the Phase IA report and Phase IB testing strategy present in the Phase IA report on December 4, 2024.
- SHPO/OPRHP initiated tribal consultation with St. Regis Mohawk Tribe THPO via email and provided the Phase IA report on July 10, 2023.
  - On December 4, 2023, SHPO/OPRHP provided the St. Regis Mohawk Tribe THPO with the revised Phase IA report via email.
- The Phase IB investigation was conducted, and the report submitted to the SHPO/OPRHP on February 14, 2024.
  - SHPO/OPRHP requested revisions to the Phase IB report in a letter dated February 28, 2024.
  - A revised Phase IB report was submitted to SHPO/OPRHP on March 1, 2024.
  - SHPO/OPRHP concurred with the Phase IB report on April 2, 2024.
- SHPO/OPRHP provided the St. Regis Mohawk Tribe THPO with a copy of the Phase IB report via email on March 1, 2024.
- A scope of work for Phase II investigation of two archaeological sites was submitted to SHPO/OPRHP on May 17, 2024.
  - SHPO/OPRHP concurred with the scope of the work via on email on May 21, 2024, and forwarded a copy to the St. Regis Mohawk Tribe THPO.

- The Phase II investigation and additional Phase IB testing was conducted, and the report was submitted to SHPO/OPRHP on July 12, 2024.
  - At the time of filing of this Application, a response has not yet been received.
- SHPO/OPRHP requested a visual impact assessment (VIA) of 12 buildings within or adjacent to the Facility on August 14, 2023.
  - The subject historic resources have been evaluated as part of the VIA (see Appendix 8-1 (VIA), Section 10.1.1.2 for a discussion of each visible resource).

#### United States Fish and Wildlife Service (USFWS)

- Endangered Species Act, Section 7 Consultation.
  - The Applicant anticipates the need for consultation with USFWS as the USFWS Information for Planning and Consultation (IPaC) tool identified one federally listed species, one proposed federally listed species, and one candidate species for federal listing, that have the potential to occur within the Facility Site. See Exhibit 12 for more information.
  - The Applicant anticipates further coordination with USFWS as part of CWA Section 404 Permit Process.

The authority to regulate stormwater discharges in accordance with the Federal CWA has been delegated to the New York State Department of Environmental Conservation (NYSDEC):

- Stormwater Permit for Discharges from Construction Activity (State Pollutant Discharge Elimination System [SPDES] GP-0-20-001).
  - The NYSDEC requires coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) for construction projects that disturb one or more acres of soil. The Applicant has prepared a Stormwater Pollution Prevention Plan (SWPPP) for the management of stormwater discharges from the Facility during construction as part of the requirements for coverage under GP-0-20-001. The SWPPP has been included as Appendix 13-3 of this Application.
  - The Applicant will submit the Notice of Intent (NOI) for SPDES General Permit



Coverage approximately 60 days prior to construction.

The Applicant will notify ORES of any significant change in the status of each application noted above as applicable and warranted.

***New York State Department of Transportation (NYSDOT)***

As discussed in Exhibit 16, the Applicant anticipates that the large dimension and weight of some Facility components (substation poles, transformers, etc.) may require a special hauling permit and/or road use agreements (RUA) along the Facility haul routes.

For a discussion on road permits and approvals associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the Facility, see Exhibit 16 (Effect on Transportation). The Applicant is requesting that the New York State Department of Transportation (NYSDOT) retain the authority to administer permits associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the Facility in accordance with Section 1100-6.1(d)(2) and Section 1100-10.2(e)(8).

**25(b) Statement of Other Applications and Filings**

The Applicant does not have or know of others who have pending applications or filings for any federal or federally delegated, federal, or state-recognized Indian Nation, state or local permits, consents, approvals, or licenses that concern the Facility. The Applicant will notify ORES of any significant changes related to other federal or federally delegated applications or filings related to the Facility.