


THIS IS A TWO-SIDED DOCUMENT

 <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p><b>DRAFT</b> APA Permit <b>2021-0247</b></p>
<p>In the Matter of the Application of</p> <p><b>PIVOT ENERGY, RIGOBERTO FELICIANO and GAIL FELICIANO</b> Permittees</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued: <b>XXXX</b></p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Rigoberto Feliciano</b></li><li><b>2. Gail Feliciano</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This permit authorizes construction of a solar generation facility and a two-lot subdivision by lease in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map in the Town of Ticonderoga, Essex County.

This authorization shall expire unless recorded in the Essex County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when either the authorized lease area has been conveyed or the solar generation facility has been constructed.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

## **PROJECT SITE**

The project site is a 35.63-acre parcel of land located on Delano Road and Shore-Airport Road in the Town of Ticonderoga, Essex County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. The site is identified as Tax Map Section 139.2, Block 3, Parcel 6.200, and is described in a deed from Henry Lawton IV, Donna Lawton, Bruce Crammond, and Karren Crammond to Rigoberto Feliciano and Gail Feliciano, dated November 2, 1995, and recorded in the Essex County Clerk's Office at Book 1093, Page 238.

The northeastern portion of the project site is improved by a single-family dwelling and associated residential development authorized by Agency Permit 95-256. The remainder of the site was once used as an apple orchard but is now inactive. Access to the project site is from Delano Road.

The project site contains a wetland area near the western property boundary. The wetland is associated with an unclassified intermittent stream. Additional wetlands not described herein or depicted on the Project Plans may be located on or adjacent to the project site.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves a subdivision by lease to create an approximately 16.73-acre parcel for the construction of a 2.5-megawatt solar generation facility. A series of solar arrays consisting of approximately 6,500 photovoltaic panels mounted on a single-axis tracking system will be surrounded by 8-foot woven-wire fencing. Improved site access and supporting overhead utility infrastructure will be developed on the project site along Delano Road.

The project is shown on the following maps, plans, and reports (Project Plans):

- 11 sheets of plans titled, "Pivot Solar NY 5," prepared by EDR, and dated October 13, 2021 (Site Plans);
- "Stormwater Pollution Prevention Plan," prepared by EDR, and dated October 2021 (Stormwater Plan);
- "Pivot Solar NY 5 – Maintenance and Vegetation Plan," prepared by Pivot Energy and received by the Agency December 16, 2021 (Maintenance and Vegetation Plan);
- A visual analysis, prepared by Saratoga Associates, dated November 19, 2021, and received by the Agency December 16, 2021 (Visual Analysis); and
- A decommissioning plan, prepared by Pivot Energy and received by the Agency October 18, 2021 (Decommissioning Plan).

A reduced-scale copy of Sheet C-101 of the Site Plans is attached as a part of this permit for reference.

## **AGENCY JURISDICTION**

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision in a Resource Management land use area in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to the construction of any major public utility use on Resource Management lands in the Adirondack Park.

**CONDITIONS**

**THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit has been recorded in the Essex County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the solar generation facility remains on the site. Copies of this permit and Project Plans shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Permit 95-256 in relation to the authorized 16.73-acre lease area. The terms and conditions of Permit 95-256 shall no longer apply to the lease area.
5. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2021-0247, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
6. Subject to the conditions stated herein, this permit authorizes a two-lot subdivision by lease as depicted on the Site Plans. Any subdivision of the project site not depicted on the Site Plans shall require a new or amended permit.
7. This permit authorizes the construction of a solar generation facility and associated site development in the location shown and as depicted on the Project Plans. Any change to the location, dimensions, or other aspect of the solar generation facility, associated site development, or Point of Interconnection with the existing overhead utilities shall require prior written Agency authorization.
8. The project shall be undertaken in compliance with the Stormwater Plan.
9. The project shall be undertaken in compliance with the Grading and Erosion & Sediment Control Plan shown on Sheet C-201 of the Site Plans.

10. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.
11. Any new free-standing or building-mounted outdoor lights associated with the solar generation facility on the project site shall require prior written Agency authorization.
12. All signs associated with the major public utility use on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].
13. Outside of the Edge of Trees/Brush shown on Sheet C-401 of the Site Plan, no trees, shrubs, or other woody stemmed vegetation shall be cut or otherwise removed on the project site between the authorized development and the public roadways without prior written Agency authorization, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
14. Between April 1 and October 31, no trees shall be removed or disturbed on the project site without prior written Agency authorization.
15. All trees, shrubs and seed mixes depicted on the Planting Plan shown on Sheet C-400 of the Site Plans shall be planted as shown and maintained as described in the Maintenance and Vegetation Management Plan and on details Sheet C-603. All vegetation depicted on the Planting Plan shall be planted no later than the first spring or fall planting season after final grading related to the construction of the solar generation facility and associated development on the project site. Vegetation that does not survive shall be replaced annually until established in a healthy growing condition.
16. Mowing within the lease parcel boundaries shown on the Site Plans shall only occur between November 1 and May 1 of any year.
17. Other than as described in the Maintenance and Vegetation Management Plan, the application of any pesticides or herbicides within the lease parcel boundaries shall require prior written Agency authorization.
18. The undertaking of any activity involving wetlands shall require a new or amended permit.
19. The Agency shall be provided with color photographs showing the completed project within 30 days of project completion. Photographs shall be taken at the project site and from along Delano Road and Shore Airport Road from Photo Locations 2, 3, 4, 7 and 8 of in the Visual Analysis. All photographs shall identify the date the picture was taken, the location of the photograph, and the lens size employed.

- 20. Except pursuant to written approval by the Agency, within one year of the solar generation facility ceasing to produce power, all infrastructure associated with the facility shall be removed and the site shall be restored to pre-development conditions at the owner's and/or operator's expense pursuant to the Decommissioning Plan.

**CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Resource Management land use area;
- c. will be consistent with the overall intensity guidelines for the Resource Management land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act; and
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project.

PERMIT issued this        day  
of                                , 2022.

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Robert J. Lore  
Deputy Director Regulatory Programs

STATE OF NEW YORK  
COUNTY OF ESSEX

On the        day of                                in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Lore, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public