


STAFF DRAFT – NOT APPROVED BY AGENCY
THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</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 style="text-align: center;">DRAFT APA Permit 2021-0167</p>
<p>In the Matter of the Application of</p> <p>TICON SOLAR, LLC, LEON W. CATLIN, and DAN E. CATLIN Permittees</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 578</p>	<p>Date Issued: XXXX</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">1. Ticon Solar, LLC2. Leon W. Catlin3. Dan E. Catlin

SUMMARY AND AUTHORIZATION

This permit authorizes a major public utility use (i.e., solar generation facility), a three-lot subdivision, and a two-lot subdivision 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 Agency will consider the project in existence when the permit has been recorded.

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 197.11-acre parcel of land located east of State Route 9N, south of Charboneau Road, west of Delano Road, and north of Burgoyne 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 project site is identified as the Resource Management portion of Tax Map Section 139.4, Block 4, Parcels 5.1, 10.1, and 36.1. The approximately 18-acre Hamlet portion of tax map parcel 139.4-1-36.1 is not part of the project site. Parcels 5.1 and 10.1 are described in a deed from Joseph N. Stanley to Leon W. Catlin and Dan E. Catlin, dated August 21, 1979, and recorded October 30, 1979 in the Essex County Clerk's Office in Book 696 at Page 93. Parcel 36.1 is described in a deed from Phillis M. Robinson (Catlin) to Leon W. Catlin and Dan C. Catlin, dated June 15, 1976, and recorded January 20, 1977 in the Essex County Clerk's Office in Book 629 at Page 118.

The project site is partially located within 300 feet of the edge of right-of-way of State Route 9N.

The project site also contains shrub swamp and emergent marsh wetlands, with a value rating of "2," located along and near the lot boundary between Lot 1 and Lot 2 immediately south of proposed development (described below). A small permanent stream known as Dudley Brook, a tributary of Five Mile Creek, flows through this wetland. The project site also contains smaller wetlands on and near Parcel 5.1.

PROJECT DESCRIPTION

The project as conditionally approved herein involves construction of a 5 MW solar generation facility consisting of tracking photovoltaic modules with a maximum height of 12 feet, and two inverters. Construction of the 21.46-acre solar array will occur within a 37.45-acre fenced area surrounded by an 8-foot-tall woven-wire deer fence. Seven new utility poles will be installed along the access road, near Charboneau Road. Trees and shrubs will be planted between site development and both State Route 9N and Charboneau Road.

The project also includes a three-lot subdivision and a two-lot subdivision, described as follows:

- the three-lot subdivision of a 60.97-acre property (tax parcels 139.4-1-10.1 and 139.4-1-5.1) into a 47.85±-acre vacant lot (portion of Parcel 10.1), a 4.97±-acre vacant lot (portion of Parcel 10.1), and an 8.15-acre vacant lot (Parcel 5.1); and
- the two-lot subdivision of a 154.14-acre property (the Resource Management portion of tax parcel 139.4-1-36.1) into a 37.15±-acre vacant lot and a 116.99±-acre lot with existing structures.

The 47.85±-acre lot and the 37.15±-acre lot will be merged to form an 85.00-acre lot for construction of the solar generation facility ("Lot 1" on the Project Plans). The 4.97±-acre lot and the 116.99±-acre lot will be merged to form a 121.96±-acre lot ("Lot 2" on the Project Plans). No development is proposed on Lot 2, which will contain an existing mobile home, two metal pole barns, a shed, and concrete silage bunkers.

An approximately 1,900-foot-long gravel access drive will be constructed from Charboneau Road to Lot 1 and the solar generation facility. Access to existing development on Lot 2 is also from Charboneau Road. Parcel 5.1 has road frontage on State Route 9N and Charboneau Road.

The 60.97-acre portion of the project site (tax parcels 139.4-1-10.1 and 139.4-1-5.1) constituted a portion of a larger property on the May 22, 1973, enactment date of the Adirondack Park Land Use and Development Plan, and was created by subdivision from this larger property in 1977. As this subdivision occurred on Resource Management lands, it appears that an Agency permit was required for its undertaking. Agency records indicate that no permit was obtained. By issuance of this permit, the 60.97-acre property shall be recognized as lawful for Agency purposes.

The project is shown on the following maps, plans, and reports:

- a one-page map titled “Lot Line Adjustment Lands N/F Leon W. & Dan E. Catlin NYS Route 9N & Charboneau Road,” prepared by Ingalls and Associates, LLP, stamped by John J. Post, Jr., LS and dated February 10, 2022 (Subdivision Map);
- Fourteen sheets of plans titled “Site Plan Approval Documents, Ticon Solar, LLC,” prepared by Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, DPC, stamped by Michael J. Finan, PE, and last revised February 8, 2022 (Project Plans);
- a report titled “Stormwater Pollution Prevention Plan for Ticon Solar, LLC,” prepared by Langan Engineering, Environmental, Surveying Landscape Architecture and Geology, DPC, stamped by Michael Finan, PE and last revised October 4, 2021 (Stormwater Plan);
- a one-page narrative titled “Ticon Solar, LLC Decommissioning Plan,” prepared and submitted by Ticon Solar, LLC, and received by the Agency on October 6, 2021 (Decommissioning Plan); and
- a one-page View Locations Map and 70 photographs and simulations prepared by Langan and received by the Agency on February 9, 2022 (Visual Analysis).

A reduced-scale copy of Sheet C-200 (Site Layout and Materials Plan) of the Project Plans and the Subdivision Map 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 the establishment of any major public utility use on Resource Management lands 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 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 any subdivision of Resource Management lands within 300 feet of the edge of the right-of-way of any state highway in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any subdivision involving wetlands 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. Copies of this permit and Subdivision Map, Project Plans, Stormwater Plan, Decommissioning Plan, and Visual Analysis 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. 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 2021-0167, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
5. Subject to the conditions stated herein, this permit authorizes a three-lot subdivision of a 60.97-acre property (tax parcels 139.4-1-10.1 and 139.4-1-5.1) into a 47.85±-acre lot, a 4.97±-acre lot, and a 8.15-acre lot, as depicted on the Subdivision Map. Any subdivision of the project site not depicted on the Subdivision Map shall require a new or amended permit.
6. Subject to the conditions stated herein, this permit authorizes a two-lot subdivision of a 154.14-acre property (the Resource Management portion of tax parcel 139.4-1-36.1) into a 37.15±-acre lot and a 116.99±-acre lot. Any subdivision of the project site not depicted on the Subdivision Map shall require a new or amended permit.
7. Within 30 days of conveyance of the 47.85±-acre lot and the 37.15±-acre lot, a new deed shall be filed in the Essex County Clerk's office describing those two lots as a single, un-divided 85.00-acre lot, shown as Lot 1 on the Key Map on Sheet C-150 of the Project Plans.
8. Within 90 days of the date this permit is recorded, a new deed shall be filed in the Essex County Clerk's office describing the 4.97±-acre lot and the 116.99±-acre lot as a single, un-divided 121.96±-acre lot, shown as Lot 2 on the Key Map on Sheet C-150 of the Project Plans.

9. This permit authorizes the construction of a major public utility use (i.e., solar generation facility and associated site development) in the location shown and as depicted on the Project Plans and Visual Analysis. Any change to the location, dimensions, or other aspect of the major public utility use shall require prior written Agency authorization.
10. Any change to the Point of Interconnection with the existing overhead utilities as shown on the Project Plans shall require prior written authorization.
11. The project shall be undertaken in compliance with the Stormwater Plan.
12. The project shall be undertaken in compliance with the Erosion and Sediment Control Plan on Sheet C-400 of the Project Plans.
13. 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.
14. Installation of any exterior lighting associated with the major public utility use on the project site shall require prior written Agency authorization.
15. All signs associated with the solar generation facility on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].
16. Within 50 feet of wetland W-1, as depicted on Sheet C-200 of the Project Plans along the west and north sides of wetland W-1, no vegetation may be cut, culled, trimmed, pruned, or otherwise removed or disturbed on Lot 1 or Lot 2 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.
17. Within 100 feet of the northern property boundary, as depicted on Sheet C-200 of the Project Plans, no trees or shrubs may be cut, culled, trimmed, pruned, or otherwise removed or disturbed on Lot 1 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.
18. Within the hedgerow extending through Lot 1 and Lot 2 to Burgoyne Road, as depicted on Sheet L-100 of the Project Plans, no trees or shrubs may be cut, culled, trimmed, pruned, or otherwise removed or disturbed on Lot 1 or Lot 2 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.

19. Between April 1 and October 31, no trees shall be removed or disturbed on the project site without prior written Agency authorization.
20. All trees, shrubs, and seed mixes depicted on the Planting Plan on Sheets L-100, L-101, L-102, L-103, and L-500 of the Project Plans shall be planted and maintained as described in that Planting Plan. All trees, shrubs, and seed mixes 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 on the project site. Any trees, shrubs, or vegetation that does not survive shall be replaced annually for a period of five years, until established in a healthy growing condition.
21. Mowing within the fenced area on Lot 1 shall only occur between November 1 and May 1 of any year.
22. The application of any pesticides or herbicides on Lot 1 shall be in accordance with Sheet L-500 of the Project Plans. Any application of pesticides or herbicides within 100 feet of wetlands shall require prior Agency review and written authorization.
23. The Agency shall be provided with color photographs showing the completed project within 30 days of completion. Photographs shall be taken at the project site and from Photo Locations 3 (State Route 9N), 5 (Burgoyne Road), 8 (Delano Road), and 10 and 11 (Charboneau Road) of the Visual Analysis. All photographs be taken on a clear day and identify the date the picture was taken, the location of the photograph, and the lens size employed.
24. 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.
25. There shall be no more than one principal building located on Lot 1 at any time.
26. There shall be no more than two principal buildings located on Lot 2 at any time. The mobile home installed on Lot 2 in 1985 constitutes one principal building. The Agency makes no assurances that the maximum development mathematically allowed can be approved.
27. There shall be no more than one principal building located on Parcel 5.1 at any time.
28. Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, the construction of any principal building on the project site shall require a new or amended permit.
29. Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, the undertaking of any new land use or development not authorized herein within 300 feet of the right of way of State Route 9N will require a new or amended permit.
30. The undertaking of any activity involving wetlands also requires a new or amended permit.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 578, 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;
- 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;
- f. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- g. will be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values.

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.

Notary Public