



**PERMIT WRITING FORM – P2022-0266**

Assigned EPS: D. Korn      Reviewed by:      Date: January 25, 2023

**APPLICANT**

Project Sponsor(s): NY 789 Tarbell Hill, LLC  
Landowners: Peter P. Zelinski, Kathryn M. Zelinski and Judson P. Zelinski  
Authorized Representative: Rocky Shoemaker, New Energy Equity

**PROJECT SITE**

Town/Village: Moriah County: Essex  
Road and/or Water Body: Tarbell Hill Rd (C.R. 42), Dugway Rd (C.R. 4) and Stony Brook  
Tax Map #(s): 97.13-1-25.100  
Deed Ref: Instrument Number 2020-3974, recorded October 1, 2020, in the Essex County Clerk’s Office under Instrument Number 2020-3974  
Land Use Area(s): H MIU LIU RU RM IU  
Project Site Size: 100± acres  
Same as Tax Map #(s) identified above  
Only the H MIU LIU RU RM IU portion of the Tax Map #(s) identified above  
Other (describe):North side of Tarbell Hill Rd (C.R. 42) and west of Dugway Rd (C.R. 4)  
Lawfully Created? Y N      Pre-existing subdivision: NA  
River Area: Y N If Yes: Wild - Scenic - Recreational      Name of River: NA  
CEAs (include all): Wetland - Fed Hwy - State Hwy - State Land - Elevation - Study River

**PROJECT DESCRIPTION**

A subdivision by lease for the construction of a 5 MW photovoltaic solar generation facility within two separate fenced areas totaling 23 acres on approximately 31 acres of leased lands. The solar generation facility involves installation of solar panel arrays mounted on a tracking system and related infrastructure including a new access road, fencing, landscaping, and utility connections. Existing and proposed access to the project site is from Tarbell Hill Road and Dugway Road. The project includes improvements to existing access locations on each road resulting in one stabilized gravel access to the project site from each of the public roadways. Power generated by the facility will run underground on the project site to seven new utility poles with an overall height of less than 40 feet located adjacent to Tarbell Hill Road and then overhead to the existing overhead electric utility lines along the public roadway.

**JURISDICTION (including legal citation)**

APA Act Section 810(1)(c)(1)(b) – Subdivision (by lease) involving wetlands  
APA Act Section 810(1)(c)(17) – Major Public Utility Use in Low Intensity Use land use area  
9 NYCRR Part 578.3(n)(3)(i) – Lease lot areas are located within 200 feet of wetland boundaries

## **PRIOR PERMITS / SETTLEMENT AGREEMENTS BEING SUPERSEDED**

Permits 90-368, 90-618, 92-23, 99-214, and 2002-128. These permits each authorized a two-lot subdivision and the construction of one single family dwelling along Tarbell Hill Road. Agency Permit 2021-0033 authorized a 5 MW solar generating facility on the project site and is being superseded. Vegetation has been cleared on the project site and a lease agreement has been filed pursuant to P2021-0033.

## **FINDINGS OF FACT – ENVIRONMENTAL SETTING**

### **Lakes, Ponds, Navigable Rivers and Streams**

Check if none

Water Body Name: **NA**

Length of Existing Shoreline (feet): **NA**

MHWM determ: Y NA

Minimum Lot Width: **NA**

Meets standard: Y NA

Structure Setback (APA Act): **NA**

Meets standard: Y NA

Structure Setback (River Regs): **NA**

Meets standard: Y NA

Y NA Cutting proposed within 6 ft of MHWM?

If Yes, < 30% vegetation? Y NA

Y NA Cutting proposed within 35 ft of MHWM?

If Yes, < 30% trees 6" dbh? Y NA

Y NA Cutting proposed within 100 ft of river area? (If Yes, include under jurisdiction)

### **Non-Navigable Streams in proximity to development**

Check if none

Permanent Stream

Intermittent Stream

Classified? Y

N

[DEC Environmental Resource Mapper](#) stream name and classification: **Stony Brook - C(T)**

Classification C is for waters supporting fisheries and (T) indicates that the waterway may support a trout population.

### **Wetlands**

Y N Jurisdictional wetland on property, or

Y N Wetlands are a basis of development jurisdiction  RASS biologist consulted

→ If Y, covertype: **deciduous swamp and emergent marsh**

→ If Y, value rating: **2**

Y N Draining, dredging, excavation of wetland

Area of wetland loss: **n/a** Permanent? Y N

Y N Fill/structure in wetlands

Fill/structure area: **n/a**

Y N Shading of wetland

Area of shading: **n/a**

Y N Clearcutting >3 acres of wetland \*RASS forester consulted

Clearcut area: **n/a**

Y N Untreated stormwater discharge into wetland

Y N Pollution discharge into wetland

Pollution type: **n/a**

Y N Pesticide/Herbicide application in wetland

Pollution type: **n/a**

**Ecological / Wildlife**

- Y N Natural Heritage Sites/listed species or habitat present, including bat
- Y N Forest management plan existing or proposed  If Yes, RASS forestry analyst consulted
- Y N Biological Survey required by RASS Biologist 2 or Supervisor  If Yes, completed

**Special Districts**

- Y N Agricultural District

**Slopes**  RASS engineer consulted if structure proposed on >15%, driveway on >12%, or wwts on >8/15%  
 Existing slope range: 0 – 15% Building area(s) if authorizing development: <10%

**Soils**

- Y N Deep-hole test pit completed? (Necessary for every building lot) Check if N/A
- If Yes, soil data information determined or approved by RASS soil analyst
- NRCS Mapped Soil Series or Other Comments: In-situ soils data contained in SWPPP approved by RASS for stormwater management purposes.

**Stormwater**

- Y N Greater than 1 acre disturbance, or
- Y N Proposed ground disturbance < 100 feet from wetlands

**Character of Area**

Nearby (include all): Residential Commercial Industrial Agricultural Forested  
 Adjoining Land Uses / State Land: Multiple private residential uses and a commercial use adjoin the project site. Closest State land is Hammond Pond Wild Forest located >5 miles to the west of the site.  
 Is nearby development visible from road? Y N  
 → If Y, name road and describe visible development: Private residential development and uses are visible from Tarbell Hill and Dugway Road. A cemetery is located to the north of the project site

**Additional Existing Development and Uses of the Project Site:** Agricultural uses and forest land. A mixture of open agricultural fields, hedgerows with some mature vegetation, watercourses, wetlands, and a large forested area in the northern and eastern portion of the southern section of the property. The agricultural fields are currently used for the growing of a rotation of crops.

**Existing Development**

**PRINCIPAL BUILDINGS**

Structure	-	Pre-existing (Y/N)?	-	Lawfully constructed (Y/N)?
None				

**ACCESSORY STRUCTURES**

Structure	-	Pre-existing (Y/N)?	-	Lawfully constructed (Y/N)?
None				

**Proposed Development**

Check if portions or all below are NJ

**PRINCIPAL BUILDINGS**

Check if proposed as a non-building lot:

Structure	Footprint	Height	# Bedrooms	Slopes
None				

Have necessary density? Y N

# remaining potential principal buildings = 29 (P2002-0128) from survey or estimate

**ACCESSORY STRUCTURES**

Structure	Footprint	Height	Slopes
540 W panels (13,896)	n/a*	< 8 Feet	< 10 %
Fencing	n/a	8 Feet	< 10 %
Equipment Pads (2)	1,500 SF	At Grade	< 8 %
Meter, Disconnect, Transformer	On E. Pads	< 8 Feet	n/a
Utility Poles (7)	n/a	< 40 Feet	< 8 %

\*Total Footprint of Panels and Equipment Pads is ±8.29 acres.

**ACCESS**

\*Consult RASS engineer for driveway > 12% slope / \*consult RASS ecologist for driveway > ¼ mile

Driveway is existing / proposed Length: 60 – 250 feet Width: 20 feet

Sight distance evaluated? Y N Slopes: < 1%

Need Clearing/Grading? Y N Comments: One 60' gravel driveway with turn around will be constructed from Dugway Road and one 250' gravel driveway with turn around will be constructed from Tarbell Hill Rd. The improved accesses will be located within the leased area and maintained by the lease.(Note if HOA or shared maintenance involved)

Need hwy access permit? Y (Essex County) N

Need easement? Y N

Need signs? Y N

**VISUAL / AESTHETIC**

Y N Proposed development visible from public areas (list) Tarbell Hill and Dugway Roads

Y N Existing topography / vegetation will screen, if retained

Y N Planting plan proposed  If Yes, RASS forestry analyst consulted

**WASTEWATER TREATMENT (WWTS) \*Consult RASS engineer for engineered plans Check if N/A**

Individual on-site  Municipal is available  Community

Y NA Slope suitable for WWTS (i.e., ≤8% shallow, ≤15% conventional)?

Y NA Soil suitable for WWTS (i.e., depth to SHGW and bedrock)?

Y NA All water bodies or streams > 100 feet WWTS? (If No, needs variance – from Town if ALLUP)

Y NA If fast perc (1-3 min/in), water > 200 feet WWTS? (If No, amended soils required)

Y NA All jurisdictional wetlands > 100 feet WWTS? (If No, counts as permit jurisdiction)

Y NA Suitable 100% replacement area identified?

Existing and proposed to remain (needs suitable 100% replacement area)

**WATER SUPPLY** Check if N/A

- Individual on-site       Municipal is available
- Y     NA All water supplies, on-site and off-site, > 100 feet WWTS? (If No, need DOH waiver)

**STORMWATER / EROSION & SEDIMENT CONTROL** \*Consult RASS engineer

- Y     N Does proposed development maintain existing drainage patterns?
- Y     N < 1 acre disturbance proposed (May need E&S Control Plan if water/slope/soil resources at risk)
- Y     N > 1 acre disturbance proposed (SWPPP required, which includes E&S Control Plan)

**UTILITIES**

- Available on site?     Y     N                       Overhead                       Underground
- Available at road?     Y     N                       Overhead                       Underground
- Proposed for site?     Y     N                       Overhead                       Underground

**FINDINGS OF FACT – COORDINATED REVIEW**

- Y     N Archeologically Sensitive Area, according to OPRHP                       OPRHP consulted
- Y     N Structures > 50 years old on or visible from site                       OPRHP consulted
- Y     N Within Lake George Park                       If Yes, LGPC consulted / application submitted
- Y     N Public water supply                       If Yes, DEC / DOH application submitted
- Y     N Greater than 1,000 gpd wastewater                       If Yes, DEC application submitted
- Y     N Disturbing bed or bank of water body                       If Yes, DEC application submitted
- Y     N Creating 5 or more lots less than 5 acres each                       If Yes, DOH application submitted
- Y     N Army Corps involvement                       If Yes, ACOE consulted
- Y     N Agency-approved Local Land Use Program                       If Yes, Town/Village consulted
- Y     N Local Land Use Program                       If Yes, Town/Village consulted

**PERMIT CONDITIONS AND IMPACT ANALYSIS**

**Merger**

Justification if merger required: NA

**Deed Covenant**

Non-building lot being created?  Y     N

If Yes and lot is not being merged by condition, no PBs? Or no structures at all? Justification: NA

**Easement**

Easement proposed or required?  Y     N

If Y, consult with Legal for conditions. Justification: Underground utilities will extend between the array areas and be directionally bored beneath the Stony Brook and wetland area.

**Construction Location and Size (may be different for each subdivision lot)**

Is new development (other than oswts) being authorized without further Agency review?  Y     N

→ If Y: Structure height limit and justification: Array Sections: 8 feet. Fencing: 8 feet. Utility Poles < 40 feet. As proposed and reviewed to minimize the potential for off-site visual impacts.

Structure footprint limit and justification: Arrays and associated components: As proposed and

reviewed to ensure effective stormwater management and erosion controls are implemented during and after construction.

→ If N:

→ Acceptable development sites identified for all subdivision lots with PB allocation?  Y  N

→ Review of future development required?  Y  N

→ If Y, justification: **Ensure potential wetland impacts are avoided or minimized.**

**Guest Cottages (if authorizing a dwelling)** *Check if N/A*

Proposed and reviewed?  Y  N

If N, guest cottages potentially allowed?  Y  NA

→ Justification for any conditions: **NA**

**Boathouses (if project site contains shoreline)** *Check if N/A*

Proposed and reviewed?  Y  N

If N, boathouses potentially allowed?  Y  NA

→ If N, justification: **NA**

→ If Y, review required (beyond definition limits)?  Y  NA

→ If Y, justification: **NA**

**Docks (if project site contains shoreline)** *Check if N/A*

Proposed and reviewed?  Y  N

If N, docks potentially allowed?  Y  NA

→ If N, justification: **NA**

→ If Y, review required (beyond definition limits)?  Y  NA

→ If Y, justification: **NA**

**Outdoor Lighting (if authorizing development)**

Plan proposed and reviewed?  Y  N

**Building Color (if authorizing development)**

If color condition required, justification: **NA**

**Tree Cutting / Vegetation Removal**

Town with Northern Long-Eared Bat occurrences?  Y  N

If Y, consult with RASS for conditions. Justification: **Project site is located within 5 miles of three known NLEB hibernaculum.**

Vegetative cutting restrictions required?  Y  N

If Y, restrictions required (choose all that apply):

within **200** feet of limits of clearing

within Click or tap here to enter text. feet of road

within Click or tap here to enter text. feet of river/lake/etc

within Click or tap here to enter text. feet of wetlands

OR  on entire site outside limits of clearing

Other: **A total of 18.5 +/- acres of tree clearing is required for site development.**

Extent of cutting restriction necessary within the area noted above:

- Cutting of all vegetation prohibited
- Cutting of trees of NA diameter dbh prohibited
- Other: trees, shrubs, or other woody stemmed vegetation

Justification: Minimize potential impacts to wetlands, surface waters and nearby land uses.

**Plantings**

Plan proposed and reviewed? Y N

If N, plantings required? Y NA

→ If Y, species, number, location, and time of year: Between the development, Dugway Road and nearby residential development: 9 WHITE SPRUCE, 6-8'/40' O.C.; 21 EASTERN RED CEDAR, 5-6'/25' O.C.; 9 TAMARACK, 5-6'/30' O.C.; 9 ALTERNATE-LEAVED DOGWOOD, 2-3'/15' O.C.; 19 BAYBERRY, 2-3'/15' O.C.; 15 NANNYBERRY, 2-3'/15' O.C.

Bioretention Basins: 40 RED-OSIER DOGWOOD 2-3'/6' O.C.; 75 VERBENA 2' O.C.; and 125 LOBELIA 18" O.C.

Grass Seed Mix as Follows: PRAIRIE DROPSEED, TALL WHITE BEARDTONGUE, CANADIAN ANEMONE, BLUEFLAG, COMMON MILKWEED, SWAMP MILKWEED, GREAT BLUE LOBELIA, WILD BERGAMOT, SMOOTH BLUE ASTER, LITTLE BLUESTEM, BOTTLEBRUSH GRASS.

Justification: Planting to be implemented as soon as construction and final grading is completed to minimize potential off-site visual impacts from development as well as potential soil erosion and stormwater runoff.

**Wetlands**

Consult with RASS for conditions. Justification: Minimize potential impacts to wetland and habitat.

**Density (may be different for each subdivision lot)**

Located in Town with ALLUP? Y N (If Y, STOP, Town oversees density.)

Authorizing PB on substandard-sized lot created pre-2000 with no permit? Y N

If N and N, list existing PBs, including whether they are pre-existing/year built: Project site is currently vacant.

Mathematically available # of new PBs (in addition to existing or replacement): 29 (P2002-0128)

Extinguishing PBs? Y N If Y, number: NA

**Wastewater (if authorizing construction of a new PB without further review)**

Municipal system connection approved? Y NA

Community system connection approved by RASS? Y NA

Proposed on-site system designed by engineer and approved by RASS? Y NA

If N, has RASS field-verified location for conventional standard trench system? Y NA

If N, has RASS field-verified location for conventional shallow trench system? Y NA

Suitable 100% replacement area confirmed for existing / proposed system? Y NA

Consult with RASS for additional conditions.

**Stormwater Management (if authorizing development)**

Consult with RASS for conditions. Justification: Ensure that potential impacts to surface water and wetlands are minimized during and after construction.

**Erosion and Sediment Control (if authorizing development)**

Consult with RASS for conditions. Justification: Ensure that potential impacts to surface water and wetlands are minimized during and after construction.

**Infrastructure Construction (if authorizing development)**

Construction necessary before lot conveyance: NA

Justification: NA

**For permits that will not include conditions related to Building Color, Vegetation Removal, or Plantings**

Explain why no condition is needed: No building color condition imposed due to the nature of the authorized development.

**Additional Site / Project-Specific Concerns / Conditions Needed**

Invasive Species Control, Utility Installation, Documentation of Construction, Discontinuance of Use

Justification: Minimize the potential for the spread of invasive species within the project site, ensure impacts to nearby landowners are minimized, confirm compliance with permit and allow a change in land use going forward.

<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	<b>Public comments received</b>	<b>If Yes, #: 1</b>
<input type="checkbox"/> Y	<input checked="" type="checkbox"/> N	<b>Applicant submitted response</b>	<b>(notes, if any)</b> One comment received inquiring about the proposed changes to the project compared to the last project authorized for the site.