

Jackie Basile

From: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>
Sent: Thursday, July 7, 2022 1:30 PM
To: Jackie Basile
Cc: Meg Thornton; Emily Jaeger
Subject: RE: Follow-up FW: Greycourt Solar project and Bog Turtles/ Timber Rattlers

Hello Jackie,

I apologize for the delay in review and thank you for sending the updated information.

Based on the information provided, including the plan notes and updated Education and Encounter plan materials, this office has determined that the Greycourt Solar project will not result in take of state listed species and an Incidental Take Permit is not required.

If project plans change, additional review may be needed. This determination will remain valid for one year. If you have any comments or questions, please feel free to contact me at 845-256-2257.

This letter only speaks to the need for an Endangered and Threatened Species Permit and does not include information on any other required Department permits or jurisdictions.

Please let me know if you have any questions.

Lisa

Lisa Masi

Senior Wildlife Biologist, Division of Fish and Wildlife

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY 12561

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From: Jackie Basile <jackie.basile@lightstar.com>
Sent: Wednesday, June 29, 2022 1:56 PM
To: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>
Cc: Meg Thornton <meg.thornton@mottmac.com>; Emily Jaeger <emily.jaeger@mottmac.com>
Subject: FW: Follow-up FW: Greycourt Solar project and Bog Turtles/ Timber Rattlers

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Lisa,

Sorry to be a bother again – I just wanted to check in to see if you have any additional feedback for this project. We have our Planning Board hearing next week and if there I would like to provide an update to the Town, if possible. I really appreciate it.

Thanks,

Jackie Basile
Development Manager
LIGHTSTAR#

#

Corporate Address: 501 Boylston Street, Boston, MA 02116

Direct: 802-558-1340

Email: jackie.basile@lightstar.com

Website: www.lightstar.com

From: Jackie Basile
Sent: Friday, June 24, 2022 2:35 PM
To: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>; Meg Thornton <meg.thornton@mottmac.com>
Cc: Emily Jaeger <emily.jaeger@mottmac.com>
Subject: RE: Follow-up FW: Greycourt Solar project and Bog Turtles/ Timber Rattlers

Good afternoon, Lisa!

I've attached the updated Project Site Plan, Species-specific survey, and the revised proposed avoidance measures. Please let me know if you have any additional comments or questions.

Thanks so much and have a great weekend!

Jackie Basile
Development Manager
LIGHTSTAR#

#

Corporate Address: 501 Boylston Street, Boston, MA 02116

Direct: 802-558-1340

Email: jackie.basile@lightstar.com

Website: www.lightstar.com

From: Masi, Lisa M (DEC) lisa.masi@dec.ny.gov
Sent: Tuesday, May 10, 2022 5:14 PM
To: Meg Thornton meg.thornton@mottmac.com
Cc: Jackie Basile jackie.basile@lightstar.com; Emily Jaeger emily.jaeger@mottmac.com
Subject: RE: Follow-up FW: Greycourt Solar project and Bog Turtles/ Timber Rattlers

Hi Meg,

I looked over the information. Were you planning to provide a narrative, or updated wildlife report, that includes this information? I did not see project plan notes related to ETS measures, like time of year restriction on tree removal

(acceptable work window of November 1st to March 31st), or use of education and encounter plans for both construction and maintenance .

In addition, I have a few comments on the Education plan slides. Slide number 3 has a Blanding's turtle pictured, not a bog turtle. Slide 4 should read Timber Rattlesnake. The mower deck height and fence height recommendation are usually higher than what is included here. Deck height 6-8 inches to prevent impacts to turtles and snakes (8 inches preferred, I see it says 6 in minimum height), or optimally, that the mowing would take place outside of the species active seasons (acceptable time frame November 1 to March 31st for both species). The gap under the fence is a minimum of 6 inches. Based on the design of the fence, I would anticipate that the new design would allow for more of a gap anyway.

In order for the Department to make a final Determination on take and the need for Article 11 Part 182 permitting, please respond to this email with additional project information, including any updated project plans, species-specific surveys, impact assessments, and proposed take avoidance measures. Any proposed species measures should also be incorporated as plan notes on project plans.

Lisa

From: Meg Thornton <Meg.Thornton@mottmac.com>

Sent: Thursday, May 5, 2022 12:02 PM

To: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>

Cc: Jackie Basile <jackie.basile@lightstar.com>; Emily Critchell <Emily.Jaeger@mottmac.com>

Subject: Follow-up FW: Greycourt Solar project and Bog Turtles/ Timber Rattlers

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Lisa-

Just following up on this as I know our ftp site would have expired and I don't know if you would have downloaded the materials from it or not. The full email with explanations is attached from before.

We were hoping to clarify some of your questions from previous coordination prior to the FEAF hitting your desk.

Below is the new ftp info. We have included all of the same attachments for your review. Please give me a call if you have any questions.

Best regards,

Meg

You can access your FTP site from

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fftp.mottmac.com%2F&data=05%7C01%7CMeg.Thornton%40mottmac.com%7Ca7aacc1ceec14552488e08da2eae2e97%7Ca2bed0c459574f73b0c2a811407590fb%7C0%7C0%7C637873622887374078%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&data=BAI3T%2BA9q94rLwBy%2Fijm3lpkzv%2FWc6utwYSEsJBPels%3D&reserved=0> with the following credentials:

username: me8517

password: OCMh8ki_kV

Data stored on your FTP site will be purged on 12/05/2022 16:43. After this date data will be unrecoverable.

Meg Thornton

Pronouns: she, her, hers

Principal Project Manager

From: Meg Thornton
Sent: Friday, April 8, 2022 3:30 PM
To: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>
Cc: Jackie Basile <jackie.basile@lightstar.com>; Emily Critchell <Emily.Jaeger@mottmac.com>
Subject: Greycourt Solar project and Bog Turtles

Hi Lisa-

We have moved further through our planning and design phases and I wanted to touch base with you again about our plans prior to the SEQR heading your way. In the folder at the ftp site (link below accessible for 7 days) is a page from our wetland delineation see "Wetland page", the yellow dashed area is our actual project area that we have leased and will be doing construction within. All of the wetlands are located outside of the boundary areas and almost all are over 300 feet away. We have the edge of an ephemeral drainage that approaches our boundary on the north side.

As you can see from the photo set within the page, this area has been farmed right up to the edge of the small tree area. From our soil probe, the soil appears saturated from the surface, indicating this is not the location of a spring but rather an area of pooled water. The soil is a silt loam and silty clay loam which holds water in this area. This has allowed the growth of wetland plants and the pooling of water in this area has prevented it from being included in the farming of the field. During our survey no bog turtles were observed. (Full delineation was also attached.)

You will also see in our plans we have changed the fencing to a wire and rail fence with easy wildlife access. (See full civil set plans) We do not anticipate any impacts to either the bog turtle or timber rattler with this project and with the cessation of farming additional wildlife may find habitat in this area. Our staff will be trained prior to conducting work at the project site to identify both the bog turtle and timber rattler so if any are spotted work will be stopped in that area and our encounter plan will be followed to avoid any impacts. This along with continued enforcement of the operational encounter plan for bog turtle and timber rattler for all future staff coming into the project area should prevent any potential future impacts.

Let me know if you have any additional comments or concerns. Feel free to email or call.

Best regards,
Meg

You can access your FTP site from
<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fftp.mottmac.com%2F&data=04%7C01%7CMeg.Thornton%40mottmac.com%7C208def24bf504981ba4608da19971039%7Ca2bed0c459574f73b0c2a811407590fb%7C0%7C0%7C637850433853282051%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C3000&data=vo6eMetfYvuClqO6H%2FnxkGwrqKo1JTWJqszsDqXk0cl%3D&reserved=0> with the following credentials:

username: me4084
password: Fot37aN6AP

Data stored on your FTP site will be purged on 15/04/2022 22:38. After this date data will be unrecoverable.

Meg Thornton
Pronouns: she, her, hers
Principal Project Manager

From: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>
Sent: Wednesday, December 15, 2021 1:51 PM
To: Fraatz, Michael R (DEC) <Michael.Fraatz@dec.ny.gov>; Meg Thornton <Meg.Thornton@mottmac.com>
Cc: Orzel, Brian A CIV USARMY CENAN (USA) <Brian.A.Orzel@usace.army.mil>; Booth-Binczik, Susan D (DEC) <Susan.Booth-Binczik@dec.ny.gov>
Subject: RE: Lightstar Solar Sites - Wetland/Stream Screening

Hello Meg,

I wanted to follow up on this email related to ETS concerns for the locations. The following comments are based on the information provided.

Greycourt Rd- Chester, NY

This project site falls in areas for Timber Rattlesnake, Northern Long-eared bat and Bog turtle. While not tree removal is foreseen, please be aware that DEC does not follow the USFWS 4(d) rule and requires removal of potential roost take place from November 1st to March 31st. Additional information is found on our website.

<https://www.dec.ny.gov/animals/106713.html> and <https://www.dec.ny.gov/animals/106090.html>

As Mike mentioned, this site falls close to what is considered and occupied wetland for bog turtles (MO-3). As such an assessment of impacts based on the distance to this wetland should be undertaken following the Bog Turtle conservation zones document (Bog Turtle Conservation Zones <https://www.fws.gov/northeast/nyfo/es/btconszone.pdf>) . Information on any impacts to hydrology, water use and water quality from the construction and operation should be discussed and any measures to address impacts described. Any other wetlands (state, federal, or non-jurisdictional for either wetland regulations) that fall within 300ft of the site should be evaluated for bog turtle habitat using Phase I Bog Turtle Habitat Survey protocol (Bog Turtle Survey Guidelines https://www.fws.gov/northeast/nyfo/es/Surveyor%20Lists/REVISED%20Phase%201%20and%202%20Protocols_04.29.20_FINAL.pdf). While the wildlife report provided mentions no other wetlands in the PSA, I'm not sure what the PSA was exactly. If project related impacts cannot be fully avoided or minimized, an Incidental Taking permit pursuant to Article 11, Title 5, Endangered and Threatened Species may be required.

In addition, based on the location, I would ask that an Education and Encounter plan for Bog Turtle be used. I see mention of mitigation measures for Timber Rattlesnake for this site, and some general information provided related to an Education and Encounter plan for this species. Please provide additional detail on this measures for our review as well.

Route 93 – Slate Hill, NY

The area falls within 2.5 miles of 4 Indiana Bat Roosts. I see that tree cutting is proposed, but the acreage has not been determined (described as 2 clusters of ~ 10 trees). Tree removal associated with this project should occur within the appropriate time of the year work window, October 1 through March 31, to avoid direct impacts to individuals and the need for an Article 11 take permit. This is mentioned in the report, but I did not see this specified in the project plans or plan notes. Please update the plan notes accordingly. If more than 10 acres of tree removal is required, a review of impacts to habitat including an analysis of change in % forest cover within 2.5 miles of the closest roost tree will be needed. I see this letter references Northern Long Eared Bats. While not present in our DEC screening, please note that DEC does not follow the 4(d) rule. Additional guidance for Northern Long-eared bats can be found on our website. <https://www.dec.ny.gov/animals/106713.html> and <https://www.dec.ny.gov/animals/106090.html> . If project related

impacts cannot be fully avoided or minimized, an Incidental Taking permit pursuant to Article 11, Title 5, Endangered and Threatened Species may be required.

Mt. Airy – New Windsor, NY

The area falls within 2.5 miles of 2 Indiana Bat Roosts I see that tree cutting is proposed, but the acreage has not been determined. Tree removal associated with this project should occur within the appropriate time of the year work window, October 1 through March 31, to avoid direct impacts to individuals and the need for an Article 11 take permit. This is mentioned in the report, but I did not see this specified in the project plans or plan notes. Please update the plan notes accordingly. If more than 10 acres of tree removal is required, a review of impacts to habitat including an analysis of change in % forest cover within 2.5 miles of the closest roost tree will be needed. I see this letter references Northern Long Eared Bats. While not present in our DEC screening, please note that DEC does not follow the 4(d) rule. Additional guidance for Northern Long-eared bats can be found on our website. <https://www.dec.ny.gov/animals/106713.html> and <https://www.dec.ny.gov/animals/106090.html>. If project related impacts cannot be fully avoided or minimized, an Incidental Taking permit pursuant to Article 11, Title 5, Endangered and Threatened Species may be required.

For all projects

In order for the Department to make a final Determination on take and the need for Article 11 Part 182 permitting, please respond to this letter with additional project information, including any updated project plans, species-specific surveys, impact assessments, and proposed take avoidance measures. Any proposed species measures should also be incorporated as plan notes on project plans.

I would ask that a gap be left under the fence to allow for wildlife movement through the site (6 inches).

If you have any questions, please let me know.

Please note a project sponsor may not commence site preparation, including tree clearing, until the provisions of SEQRA are complied with and all necessary permits issued for the proposed project.

The absence of data does not necessarily mean that rare or other state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

Lisa Masi

Senior Wildlife Biologist, Division of Fish and Wildlife

New York State Department of Environmental Conservation

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From: Fraatz, Michael R (DEC) <Michael.Fraatz@dec.ny.gov>
Sent: Friday, December 3, 2021 9:13 AM
To: Meg Thornton <Meg.Thornton@mottmac.com>
Cc: Masi, Lisa M (DEC) <lisa.masi@dec.ny.gov>; Orzel, Brian A CIV USARMY CENAN (USA) <Brian.A.Orzel@usace.army.mil>
Subject: Lightstar Solar Sites - Wetland/Stream Screening

Hi Meg,

Sorry for the delay, below are my notes on each site. Quick answer is the only permit that may be needed depending on final site plans/disturbance would be a 401 Water Quality Certification. You mentioned you had sent some of this to the ACOE already so we'd need to see what they have said regarding the WQC if one is needed. Thanks.

Greycourt Rd – Chester, NY

- Class C stream on site – Seely Brook – I can't tell if the stream line is the same wetland area you show on your plans – if the stream/wetland is being left alone, you do not need an Water Quality Certification
- MO-1 North of railroad tracks (outside of projects limits)
- MO-3 South of Greycourt Road (outside of project limits)
- Known occurrence of bog turtles nearby – Lisa Masi is copied here (I know you've been in touch with her already so this is just an FYI)

Route 93 – Slate Hill, NY

- No state regulated wetlands or protected streams on site

Mt. Airy – New Windsor, NY

- 2016 fill in wetland – I did pass along the screenshot I sent to you to ACOE – just FYI
- Wetland is eligible to be regulated on site (see below for language) – this means that the wetland onsite meets the criteria to be regulated if the maps were re-done but at this time is not on our regulatory map
 - Eligible wetlands that meet the regulatory criteria but are not shown on the regulatory maps should be afforded the same level of protection as the wetlands that are currently on the regulatory map. Wetlands provide functions and benefits to the people on New York State as outlined in Article 24. All development should be planned to avoid state regulated wetlands and the 100 foot adjacent areas to the maximum extent practicable. Unavoidable impacts such as for access to unregulated must be minimized and mitigated to the maximum extent practicable..

Michael Fraatz

he/him/his

Biologist, Bureau of Ecosystem Health

New York State Department of Environmental Conservation
21 South Putt Corners Road, New Paltz, NY 12561

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