



BROOKSIDE SOLAR, LLC

Matter No. 21-00917

900-2.26 Exhibit 25

Other Permits and Approvals

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Appendix 25-1. USACE Facility-Related Correspondence

Acronym List

AES	The AES Corporation, Inc.
AJD	Approved Jurisdictional Determination
CRIS	Cultural Resources Information System
CWA	Clean Water Act
FAA	Federal Aviation Administration
IPaC	Information for Planning and Consultation
NOI	Notice of Intent
NWP	Nationwide Permit
NYSDEC	New York State Department of Environmental Conservation
NYCRR	New York Codes, Rules, and Regulations
OPRHP	Office of Parks, Recreation, and Historic Preservation
ORES	Office of Renewable Energy Siting
PJD	Preliminary Jurisdictional Determination
SHPO	State Historic Preservation Office
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
USACE	United States Army Corps of Engineers
USCs	Uniform Standards and Conditions
USFWS	United States Fish and Wildlife Service
WOTUS	waters of the United States
WQC	Water Quality Certification

Glossary Terms

Applicant

Brookside Solar, LLC, a subsidiary of The AES Corporation, Inc. (AES), the entity seeking a siting permit for the Facility from the Office of Renewable Energy Siting (ORES) under Section 94-c of the New York State Executive Law.

Facility

The proposed components to be constructed for the collection and distribution of energy for the Brookside Solar Project, which includes solar arrays, inverters, electric collection lines, and the collection substation.

Exhibit 25: Other Permits and Approvals

This Exhibit provides information required in accordance with the requirements of 900-2.26 of the Section 94-c Regulations.

25(a) Anticipated Federal or Federally-Delegated 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):

- Based on the finding of the FAA Notice Criteria Tool, included as Appendix 16-10, 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), Nationwide Permit (NWP) Program.
 - To initiate the Preliminary Jurisdictional Determination (PJD) process, the Applicant submitted a copy of the Facility's Wetland and Waterbody Delineation Report along with other required documents (Appendix 14-1) to the New York District – Regulatory Branch via email (CENAN-R-Permit-App@usace.army.mil) on July 27, 2021, along with a request for a boundary verification of the features presented in the report. A USACE site visit occurred on November 10, 2021. An Approved Jurisdictional Determination (AJD) was provided to the USACE on December 20, 2021. A copy of this correspondence is provided in Appendix 25-1.
 - The Applicant anticipates the need for NWP coverage for the construction of the Facility. The NWP Program has several NWPs that may be applicable to the Facility and which authorize discharges of dredged or fill material into non-tidal

waters of the United States (WOTUS). The Applicant will coordinate with the USACE prior to submittal of the NWP application.

- The Applicant intends to apply for the NWP in early-to-mid of 2022.
- 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 WOTUS.
 - The Applicant intends to apply for the WQC on or around Q2 of 2022. ORES will issue the Water Quality Certificate, see Exhibit 13(f).
- National Historic Preservation Act, Section 106 compliance; and
 - 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 Office of Parks, Recreation, and Historic Preservation (OPRHP) and New York State Historic Preservation Office (SHPO) to develop the scope and methodology for cultural resources studies for the Facility. A copy of this correspondence is provided in Appendix 9-2.
 - To date, formal consultation with the OPRHP 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 June 15, 2020.
 - A Phase IA archaeological investigation was conducted, and the report submitted to the SHPO/OPRHP on September 18, 2020.
 - A Historic Architecture Survey Methodology was submitted to SHPO/OPRHP on October 30, 2020.
 - The Phase IB Scope of Work investigation was conducted, and the report submitted to the SHPO/OPRHP on July 14, 2021. Due to Facility layout modifications, an additional Phase IB mobilization occurred throughout the month of December 2021. A Phase IB report addendum was submitted to the SHPO/OPRHP on December 28, 2021.

- The Historic Architectural Resources Survey and Effects Report was submitted to SHPO/OPRHP on August 6, 2021.

United States Fish and Wildlife Service (USFWS):

- Endangered Species Act, Section 7 Consultation.
 - The USFWS will be consulted as part of the CWA Section 404 permit process. The USFWS Information for Planning and Consultation (IPaC) tool identified one federally listed species that has the potential to occur within the Facility: the federally threatened northern long-eared bat (*Myotis septentrionalis*) (IPaC, December 22, 2020).

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-0-20-01).
 - 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.

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

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. Brookside will notify ORES of any

significant changes related to other federal or federally delegated applications or filings related to the Facility.

Conclusion

The Applicant intends to consult with the USFWS and apply for both an NWP and WQC. The Section 106 review process is underway to obtain approval under the National Historic Preservation Act. To obtain coverage under the NYSDEC SPDES General Permit, the Applicant has prepared a SWPPP and will submit an NOI approximately 60 days prior to construction. The Facility has been designed to comply with 19 New York Codes, Rules, and Regulations (NYCRR) §900-2.26 and the Uniform Standards and Conditions (USCs) and all applicable permits and approvals will be obtained prior to construction, as applicable.