



SOMERSET SOLAR, LLC

MATTER NO. 22-00026

§900-2.26 Exhibit 25

Other Permits and Approvals

CONTENTS

EXHIBIT 25 OTHER PERMITS AND APPROVALS 1

25(a) Anticipated Federal or Federally Designated Permits, Consents, Approvals, or Licenses 1

25(b) Statement of Other Applications or Filings 4

ACRONYM LIST

§	Section
CR	County Route
CWA	Clean Water Act
FAA	Federal Aviation Administration
Facility Substation	Somerset Collector Substation
NOI	Notice of Intent
NYCRR	New York Codes, Rules and Regulations
NYS	New York State
NYSDOT	New York Department of Transportation
OPRHP	Office of Parks, Recreation, and Historic Preservation
ORES	Office of Renewable Energy Siting
SPDES	State Pollutant Discharge Elimination System
SWPPP	Stormwater Pollution Prevention Plan
USACE	United States Army Corps of Engineers
WQC	Water Quality Certification

Glossary Terms

Applicant	Somerset Solar, LLC, a subsidiary of The AES Corporation, Inc. (AES), the entity seeking a siting permit for the Facility Site from the Office of Renewable Energy Siting (ORES) under Section (§) 94-c of the New York State Executive Law.
Application	Application under §94-c of the New York State Executive Law for review by the ORES for a Siting Permit.
Facility	The proposed components to be constructed for the collection and distribution of energy for the Somerset Solar Facility, which includes solar arrays, inverters, electric collection lines, and the collection substation.
Facility Site	The limit of disturbance (LOD) that will be utilized for construction and operation of the Facility, which totals about 696 acres on the Project Parcels in the Town of Somerset, Niagara County, New York (Figure 2-1).
Project Parcels	The parcels that are currently under agreement with the Applicant and Landowner, totaling about 1,784 acres in the Town of Somerset, Niagara County, New York, on which the Facility Site will be sited (Figure 3-1).
Project Site	The acreage of the Project Parcels under agreement between the Applicant and the Landowner, consisting of approximately 1,396 acres, in which the Applicant has performed diligence, surveys and assessments in support of Facility design and layout.

EXHIBIT 25 OTHER PERMITS AND APPROVALS

This exhibit addresses the requirements specified in 19 New York Codes, Rules and Regulations (NYCRR) Section (§) 900-2.26 regarding other permits and approvals.

The Applicant anticipates the Facility shall comply with a United States Army Corps of Engineers (USACE) Clean Water Act (CWA) Nationwide Permit (NWP); therefore, the Applicant will apply for a Section 401 Water Quality Certification (WQC) and will comply with NWP general and regional conditions. A Section 106 review process has been conducted to obtain approval under the National Historic Preservation Act, and the Applicant has received concurrence from the Office of Parks, Recreation and Historic Preservation (OPRHP) on the results of the Phase IA and Phase IB reports, as well as the Historic Architecture report and the proposed mitigation that addresses their identification of potentially significant visual impacts to the Babcock House (a participating property and National Register of Historic Places-eligible property) (Appendix 9-A). To obtain coverage under the New York Department of Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) Permit, the Applicant has prepared a Preliminary Stormwater Pollution Prevention Plan (SWPPP) and will submit a Notice of Intent (NOI) approximately 60 days prior to construction. The Applicant will obtain a Special Hauling Permit from the New York State Department of Transportation (NYSDOT) prior to scheduling the delivery of the Somerset Collector Substation (Facility Substation) transformer and will obtain applicable driveway permits from NYSDOT and Niagara County Department of Public Works (Exhibit 16). A Federal Aviation Administration (FAA) Notice of Criteria review was performed for the Facility, and results determined that FAA review of the Facility would not be required (Appendix 8-A, Attachment 8, Appendix A).

The Facility has been designed to comply with 19 NYCRR §900-2.26 and the Uniform Standards and Conditions and all applicable permits and approvals will be obtained prior to construction, as applicable.

25(a) Anticipated Federal or Federally Designated Permits, Consents, Approvals, or Licenses

The following sections describe the federal or federally delegated permits, consultations, consents, approvals, or licenses that are anticipated to be required for construction or operation of the Facility.

United States Army Corps of Engineers

To facilitate the request for Jurisdictional Determination submitted to the USACE, the Applicant submitted a copy of the Facility's Wetland and Waterbody Delineation Report (Appendix 14-A) along with other required documents requested to the USACE Buffalo District Office. A site-walk verification was completed with the USACE in September 2022 and the Applicant received both Approved and Preliminary Jurisdictional Determinations for Project Site wetlands and waterbodies from USACE on March 2, 2023.

The Applicant has designed the Facility such that coverage under a CWA NWP is applicable. The permanent impacts to USACE-jurisdictional wetlands are anticipated to fall beneath the NWP threshold that would trigger the need for submittal of a pre-application notification (i.e., application) to the USACE. Given the proposed activities qualify for coverage under a CWA NWP, the Applicant shall comply with the applicable NWP (likely NWP 51), NWP General and Regional Conditions, and New York State (NYS) Section 401 WQC conditions during construction and operation of the Facility.

National Historic Preservation Act, Section 106 Compliance

The Facility will meet the criteria of a NWP under the CWA, and as such, consultation for the Facility will fall under the Section 106 review process. The Applicant initiated formal consultation with the OPRHP on February 18, 2021 to develop the scope and methodology for cultural resources studies for the Facility. Results of historic architecture and archaeological surveys completed are described in Exhibit 9. A copy of all correspondence with OPRHP received to date for the Facility is provided in Appendix 9-A and includes OPRHP concurrence of the Applicant's archaeological survey results and Historic Architecture surveys, including approval of the Applicant's proposal to mitigate potentially significant visual impacts to the Babcock House, a participating property and National Register of Historic Places-eligible property.

Office of Renewable Energy Siting

Following the final design of the Facility and consultation with Office of Renewable Energy Siting (ORES), the Applicant will prepare and submit a request to obtain a Section 401 WQC indicating that the proposed Facility construction and operation will be in compliance with the water quality standards set forth in Title 6 of the NYCRR §608.9 regarding Use and Protection of Waters. The WQC from ORES will be obtained by the Applicant prior to construction. The ORES will issue the WQC.

New York State Department of Environmental Conservation SPDES

Authority to regulate stormwater discharges in accordance with the federal CWA has been delegated to the NYSDEC. 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 1 or more acres of soil. The Facility will require coverage by a SPDES General Permit, which will be obtained prior to initiating construction activities. The Applicant has prepared a Preliminary SWPPP (Appendix 13-B) for the management of stormwater discharges from the Facility during construction as part of the requirements for coverage under GP-0-20-001. The Applicant will submit the NOI for SPDES General Permit Coverage approximately 60 days prior to construction.

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

New York State Department of Transportation

The NYSDOT oversees issuance of Special Hauling Permits, which are required to move vehicles and/or loads on NYS highways if the vehicle and/or loads exceed the legal dimensions or weights specified in Section 385 of the NYS Vehicle and Traffic Law. NYSDOT oversees issuance of Highway Work Permit for Non-Utility Work and Niagara County Department of Public Works oversees issuance of driveway permits, which will be required for construction of access road entryways for roads under their jurisdiction (NYS routes and Niagara County routes, respectively). The Facility will have 18 new access road entrances along NYS Route 18/Lake Road, Niagara County Route (CR) 108/Hartland Road, and CR 65/Hosmer Road.

The particular vehicles involved in the construction of the Facility have not yet been finalized; however, conventional construction vehicles will be utilized, with the largest vehicle expected to be a semi-trailer (AASHTO WB-67), which has been identified as the design vehicle in the determination of potential restrictions on the haul routes to the Project Site. Except for the delivery of the Facility Substation transformer, the delivery of solar components and construction materials are not anticipated to require oversize or overweight transport vehicles. The transformer delivery is expected to require a Special Hauling Permit from the NYSDOT for an oversize/overweight vehicle. The Applicant will coordinate with the NYSDOT to obtain the required Special Hauling Permit prior to scheduling delivery of the Facility Substation transformer to the Facility Site; and coordinate with NYSDOT and Niagara County Department of Public Works to obtain the highway and driveway permits prior to initiating construction of the access road entrances.

Federal Aviation Administration

The FAA evaluates potential impacts on air navigation for proposed structures that exceed certain criteria, such as structures having heights greater than 200 feet above ground level, and structures located in close proximity to public use and military airports (14 Code of Federal Regulations §7.9 a-e). A FAA Notice of Criteria review was performed for the Facility, and results determined that FAA review of the Facility would not be required (Appendix 8-A, Attachment 8, Appendix A).

25(b) Statement of Other Applications or Filings

The Applicant does not have or know of others who have pending applications or filings for any federal or federally designated, federal or state recognize Indian Nation, state or local permit, consent, approval or license which concerns the Facility. The Applicant will notify ORES of any significant change related to other federal or federally delegated applications or filings related to the Facility.