



TRELINA SOLAR ENERGY CENTER

Case No.: 19-F-0366

1001.32 Exhibit 32

State Laws and Regulations

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Exhibit 32: State Laws and Regulations

This Exhibit will track the requirements of proposed Stipulation 32, dated June 19, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.32.

32(a) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Procedural Nature

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a procedural nature that are applicable to the construction or operation of the Trelina Solar Energy Center (Project) (Table 32-1). These state requirements are supplanted by Public Service Law (PSL) Article 10, except for permits to be issued by the NYSDEC pursuant to federal recognition of state authority, or pursuant to federally delegated or approved authority, in accordance with the Clean Water Act, the Clean Air Act and the Resource Conservation and Recovery Act, and permits pursuant to § 15-1503, Title 9 of Article 27, and Articles 17 and 19 of the Environmental Conservation Law (ECL), unless the Board expressly authorizes the exercise of such authority by the state agency.

Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature

Permit/Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Certificate of Public Convenience and Necessity (PSL § 68)	New York Public Service Commission (NYPSC)	Projects greater than 79.5 to 80 megawatts (MW)	Certificate may be required per regulatory requirements as interpreted by NYPSC staff in Cassadaga decision. Further consultation with Department of Public Service (DPS) is recommended.	Concurrent with Article 10 Application review and approval.

Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature

Permit/Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Stormwater Permit for Discharges from Construction Activity (State Pollutant Discharge Elimination System [SPDES] GP-0-20-001)	New York State Department of Environmental Conservation (NYSDEC)	Soil disturbance of one or more acres	Preparation of a Stormwater Pollution Prevention Plan (SWPPP)	Applicant will submit a Final SWPPP prior to construction and also submit Notice of Intent (NOI) to NYSDEC at least five days prior to construction.
Water Quality Certification (Section 401 of the Clean Water Act [CWA])	Siting Board	Projects that will result in the discharge of dredged or fill material into Waters of the United States (WOTUS)	Wetland and waterbody delineations for this Application began in Summer 2017 and were completed in May 2019	Issuance will be coordinated as part of the Article 10 process.
National Historic Preservation Act (Section 106)	New York State Historic Preservation Office (SHPO)	Project must go through review/consultation to determine whether it will affect historic properties	Phase IA/B Archaeological Survey Historic Architectural Survey	Applicant is consulting with SHPO via Cultural Resources Information System (CRIS) Phase IA and IB archaeological survey review and historic architectural survey review are being coordinated with Article 10 process.

Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature

Permit/Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Agricultural and Markets Law – Article 25-AA	New York State Department of Agriculture and Markets (NYSAGM)	Consultation required as Project is located within certified Agricultural Districts	Review of Agricultural District Mapping & Coordination with NYSAGM	Consult with NYSAGM for recommendations on how to minimize impacts to agricultural operations as part of the Project. Consultation will be incorporated into the Article 10 process.
Interconnection Studies	New York Independent System Operator (NYISO)	Interconnection Required	Feasibility study and system reliability impact study complete.	Interconnection request submitted.

32(b) List of State Procedural Requirements

At this time, the Applicant does not request the Siting Board to authorize any state agency to expressly authorize the exercise of authority for any procedural requirements.

32(c) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Substantive Nature

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a substantive nature that are applicable to the construction or operation of the Project (Table 31-2). The Applicant intends to comply with the substantive requirements as outlined in Table 32-2.

32(d) Summary Table of All State Substantive Requirements

Table 32-2. Summary Table of All State Substantive Requirements

Provision	Degree of Compliance
Water Quality Certification. Section 401 of the CWA 6 NYCRR Part 621.4e (Water Quality Certifications in Accordance with Section 401 of the CWA)	The Applicant anticipates to fully comply.
Consultation Pursuant to §106 of the National Historic Preservation Act 9 NYCRR Part 428 (State Agency Activities Affecting Historic or Cultural Properties)	The Applicant anticipates to fully comply.
SPDES General Permit for Construction Activity Article 3, 6 NYCRR Part 750-1.11 (Application of Standards, Limitations, and other Requirements)	The Applicant anticipates to fully comply.
Special Hauling Permit Section 385 of the New York State Vehicle and Traffic Law	If required, the Applicant anticipates to fully comply.

32(e) List of State Approvals, Consents, Permits, Certificates, or Other Conditions for Offsite Components

The Applicant has not identified any additional state approvals, consents, permits, certificates, or other conditions for proposed offsite interconnections and ancillary features.

References

- New York State Department of Environmental Conservation (NYSDEC). November 23, 2016. *SPDES General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-15-002)*. https://www.dec.ny.gov/docs/water_pdf/gp015002.pdf. Accessed 2019.
- NYSDEC. May 1997. *Article 24 Freshwater Wetlands, Title 23 of Article 71 of the Environmental Conservation Law*. https://www.dec.ny.gov/docs/wildlife_pdf/wetart24b.pdf. Accessed December 27, 2019.
- New York State Parks, Recreation, and Historic Preservation. n.d. *Federal and State Preservation Legislation*. <https://parks.ny.gov/shpo/environmental-review/preservation-legislation.aspx>. Accessed December 27, 2019.
- United States Environmental Protection Agency. May 1, 2019. *Clean Water Act Section 401: State Certification of Water Quality*. <https://www.epa.gov/cwa-401/clean-water-act-section-401-state-certification-water-quality>. Accessed 2019.