



October 22, 2020

Town of Ossining Planning Board
John-Paul Rodrigues Operations Center
101 Route 9A – P.O. Box 1166
Ossining, NY 10562
(914) 762-8419
ATTN: Ching Wah Chin

RE: Borrego Solar Preliminary Site Plan prepared by PV Engineers, P.C. Dated September 18, 2020

Project Name: 381 N Highland Ave

Valerie Monastra, AICP, Nelson Pope Woorhis (10/05/20)

SEQR and Procedural Comments

1. SEQR: The Proposed Action is classified as an Unlisted Action. The Planning Board should circulate a notice of its intent to be lead agency to commence the SEQR process.

Response: Noted

2. Zoning: The Project Site is zoned R-20. The Applicant is seeking approvals for a battery energy storage facility which will require a special permit from the Zoning Board of Appeals (ZBA). The proposed use would fall under the use category “public utility rights-of-way,” as well as “structures and other installations necessary to serve areas within the town” [200-7(B)(3)].

Response: Noted

3. Public Hearing: A Planning Board public hearing per Section 200-50(C)(5) of the zoning code will be required.

Response: Noted

4. Zoning Board of Appeals: Besides a special permit, an height variance of 0.5 feet will be required from the ZBA for the 7-foot fence. Section 200-25(D)(1) states “fences or walls over 6.5 feet in height may not be erected in front, rear or side yards.”

Response: As discussed at the previous Planning Board Meeting on October 7th, our fence is not within the “Yard” setback limits so we believe it should not be subjected to the height restriction of 6.5 feet. Typically the intent of the fence height limit is to not encroach upon or shade neighboring properties, which our fence is not doing.

5. County Board Referrals: This project will require referral to the Westchester County Planning Board per Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code.

Response: Noted

Environmental Review Comments

1. A review of the Full EAF was undertaken. The Applicant should make the following edits to the EAF form:

- a. Section B. Government Approvals – The Applicant should list an height variance from the Zoning Board of Appeals as an additional approval needed.

Response: As discussed at the previous Planning Board Meeting on October 7th, our fence is not within the “Yard” setback limits so we believe it should not be subjected to the height restriction of 6.5 feet. Typically the intent of the fence height limit is to not encroach upon or shade neighboring properties, which our fence is not doing.

- b. Section B.i.ii LWRP – The Applicant should change this response from “Yes” to “No.” The Village of Ossining has an LWRP, but the Town of Ossining does not.

Response: The response has been changed from “Yes” to “No”.

- c. Section E.2.h.iv. – The text is cut off in the response. Please update the response.

Response: The response has been updated.

2. Potential Contamination History: While the Project Site is within 2,000 feet of a site in the New York State Department of Environmental Conservation (NYSDEC) Environmental Site Remediation database, the remediation refers to the Hudson River and this project will have no impact on the Hudson River and will maintain the 100 foot buffer to the River.

Response: Noted

3. Wetlands: The EAF form identified that both federal and State wetlands are located on the Project Site. However, the project avoids all wetland or wetland buffer areas and will have no impact on the wetlands.

Response: Noted

4. Floodplains: A portion of the Project Site is within the 100 and 500-year floodplain. However, the site of the proposed battery energy storage facility will be located 60 feet above floodplain elevation. No impacts to the floodplains are anticipated.

Response: Noted

5. Threatened or Endangered Species: The Project Site either contains threatened or endangered species or habitat for those species. The EAF identified the following species: Shortnose Sturgeon; Bald Eagle; Least Bittern, and Atlantic Sturgeon. A letter was received April 24, 2020 from NYSDEC requesting additional information. The Applicant should provide a response to the NYSDEC's letter.

Response: Our environmental consultant, GEI, prepared and submitted a habitat assessment document on October 8th (attached) and is coordinating with NYSDEC and USFWS to acquire letters of "No Impact".

6. Archeological Site: The Project Site is within an archeologically sensitive area. A letter was received by the State Historic Preservation Office (SHPO) on April 13, 2020 requesting a Phase IA/B archeological survey for components of the project that will involve ground disturbance. The Applicant should provide the requested documentation.

Response: We are working with Hartgen Archaeological Associates to prepare a Phase 1A/B for the site to satisfy SHPO.

Site Plan Comments

1. The Applicant provided a site plan with general dimensions of the battery storage facility. Additional details on the road widths, and road surface materials should be included on the Plan.

Response: Additional details on the road widths, and road surface materials have been included on the plans.

2. The Applicant should provide architectural profiles of all four sides of the storage facility and photographic examples of the types of units that will be installed.

Response: Architectural Plans have been included with the plan set. We will provide photographic examples at the meeting. Photos of the site from our site walk on June 2nd, 2020 can be viewed here: <https://photos.app.goo.gl/ggfnb24UK4KM1JP88>

3. The site plan identifies a 7-foot fenced enclosure. The Applicant should provide details and materials of the proposed fence.

Response: A detail of the 7-foot fenced enclosure has been provided in the plans. It is a standard chain-link fence.

4. Is any landscaping proposed to screen any visual impacts? If so, please submit that information.

Response: Landscaping is not proposed since there are no visual impacts due to the siting of the system. Photos of the site from our site walk on June 2nd, 2020 can be viewed here: <https://photos.app.goo.gl/ggfnb24UK4KM1JP88>

5. It is recommended that this application be referred to the Ossining Fire Department and to the Building Inspector, John Hamilton, for their review and comment on compliance with all applicable fire safety codes and emergency access to the battery storage facility.

Response: Noted

7. Please provide information on the noise levels and confirm that the facility will meet the Town's Noise regulations found in Chapter 130, Noise, of the Town Code.

Response: The maximum decibel level for any of the potential HVAC systems is 73 dBA when measured 10ft away (see chart below), which is about the sound level of a dishwasher. That based on the principles of the inverse square law, sound is attenuated as you move farther away from it, to about 56dBA once you're 80ft away, which is about as loud as a refrigerator. Due to the, topography, vegetation, and large distance surrounding the proposed system, the noise levels generated will be below ambient levels from any potential receptors and well below the 50 dBA specified in Chapter 130 of the Town Code.

Distance From Unit (Feet)	Marvair Sound Data for the ComPac I and II Air Conditioners (dBA)						
	AVPA24ACA	AVPA30HPA	AVPA36ACA	AVPA42ACA	AVPA48ACA	AVPA60ACA	AVPA72ACA
TONS --- >	2	2.5	3	3.5	4	5	6
5	66	69	70	70	72	73	69
10	61	67	66	66	68	70	64
20	56	63	62	62	63	65	60
30	53	61	58	60	61	63	58
40	51	59	56	59	58	61	56
50	50	57	55	57	57	60	55
60	49	56	53	56	56	58	53
70						57	
80						56	

8. The Applicant should provide a lighting plan for the proposed site including the proposed lumens.

Response: There will be no additional continuous lighting for the system or parking lot. The battery containers contain two 18W LED, switch-controlled lights (on opposite sides of the battery container) and the external pad will contain a single dark sky compliant light. All fixtures are at low incident angles to reduce light pollution to abutting properties.

Additional Plans

The Town of Ossining is working on a draft Battery Energy Storage law based upon New York State Energy Research and Development's (NYSRDA) model law. The law itself will most likely not be adopted until after this application is complete. This application meets many of the criteria in the model law, but there are a few additional plans highly recommended by NYSERDA that should be submitted and reviewed during site plan approval for battery storage facilities. It is recommended that the Applicant provide the following additional plans for review and comment by the Building Department and Ossining Fire Department:

1. Decommissioning Plan;

Response: A Decommission Plan has been provided with submission.

2. Operation and Maintenance Plan;

Response: An Operation and Maintenance Plan will be prepared for this project and supplied to the Building and Fire Departments for review and approval prior to the issuance of a Building Permit. Once operational the site will have a full-time (24/7) O&M company monitoring and maintaining the system.

3. Emergency Operations Plan.

Response: A draft Emergency Operations Plan has been included with the submittal. A final version will be supplied to the Building Department for review and approval prior to the issuance of a Building Permit.

Dan Ciarcia, Ciarcia Engineering, P.C. (10/07/20)

The preliminary site plan submitted for the Borrego Solar project at the Saint Augustine facility has been reviewed and we have the following comments:

1. Provide an erosion control plan and erosion control details.

Response: An erosion control plan (C-4.0) and erosion control details have been added to the plans.

2. Provide a Stormwater Pollution Prevention Plan (SWPPP) to capture and treat the additional runoff generated by the proposed access road and equipment pad.



Response: Noted, we are preparing a SWPPP document and associated stormwater design for the site.

3. Provide details of the proposed access road and utility pad.

Response: Details of the proposed access road and utility pad have been added to the plans.

4. Provide a detail for the proposed electric utility trenches.

Response: A detail for the proposed electric utility trench has been added.

Please feel free to contact me if you have any further questions.

Sincerely,
PV Engineers, P.C.

A handwritten signature in black ink, appearing to read 'G. Gibbons'.

Gregory Gibbons, P.E.
Civil Engineer
315-378-9567;
ggibbons@borregosolar.com



Consulting
Engineers and
Scientists

October 8, 2020
Project 2001943

New York State Department of Environmental Conservation
Region 3, Division of Environmental Permits
21 South Putt Corners Rd
New Paltz, NY 12561
dep.r3@dec.ny.gov

Re: Threatened and Endangered Species Consultation
381 North Highland Avenue Energy Storage Site, Town of Ossining, Westchester County

To Whom it May Concern,

GEI Consultants, Inc., P.C. has been retained by Borrego Solar Systems, Inc. (Borrego) to assist with regulatory agency coordination and environmental permitting for the proposed solar array at 381 North Highland Avenue in the Town of Ossining, Westchester County, New York.

The proposed solar energy storage project proposes to install an array of batteries and appurtenant switches, breakers, and other equipment on approximately 15,000 sq. ft. of existing undeveloped open land.

The attached response from the NYS Natural Heritage Program dated April 23, 2020 indicates two state-listed threatened bird species associated with the site: the bald eagle (*Haliaeetus leucocephalus*) and least bittern (*Ixobrychus exilis*). The bald eagle has been documented throughout a non-breeding area that includes the project site, and nesting within 0.4 mile of the project site. The least bittern is known to occur within 0.5 mile of the project site. The report also indicates two state-listed endangered fish species are known to occur within 0.5 mile of the project site: shortnose sturgeon (*Acipenser brevirostrum*) and Atlantic sturgeon (*Acipenser oxyrinchus*).

The project property is approximately 28.2 acres of mixed institutional use (church and school), forested land and open fields. The battery storage array is proposed within one of these open fields on the northwest portion on the property. The area surrounding the proposed battery storage array on the north, east, and west is a mixed deciduous forest of moderate age, with most trees ranging from 1-20" diameter at breast height (DBH). Some of the common species observed included red maple (*Acer rubrum*), red oak (*Quercus rubra*), and American beech (*Fagus grandifolia*). The mouth of Croton River empties into Croton Bay bordering the northwestern and western boundaries of the Site.

Per the NYSDEC species description, "eagles prefer undisturbed areas near large lakes and reservoirs, marshes and swamps, or stretches along rivers where they can find open water and their primary food, fish." The Croton River and Croton Bay bordering the Site offer suitable habitat for bald eagle to find prey and mature trees along the edge of the water may provide

suitable perching habitat for bald eagles. Bald eagles have been identified in the vicinity of the Site; however, the proposed project does not include any work within 100' of the delineated wetlands and/or water's edge. The proposed project does not anticipate the cutting of any trees. It is anticipated that the project will have *No Effect* on this threatened species.

Per the NYSDEC species description, "least bitterns occur in freshwater and brackish marshes with tall, dense emergent vegetation such as cattails, sedges, and rushes that are interspersed with clumps of woody shrubs and open water." Emergent wetland communities were observed and delineated along the northwestern and western parcel boundaries. These emergent plant communities along the edge of the river/bay are dominated by common reed (*Phragmites australis*) and may offer suitable nesting habitat for the least bittern. However, the proposed project does not include any work within 100' of the delineated wetlands and/or water's edge. It is anticipated that the project will have *No Effect* on this threatened species.

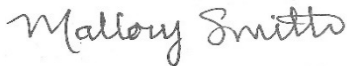
The two state-listed endangered fish species are known to occur within 0.5 mile of the project site: shortnose sturgeon and Atlantic sturgeon. The proposed project at the Site does not include any work to be performed in the water therefore it is anticipated that the project will have *No Effect* on these threatened species.

To access the field where the batteries are proposed, a permanent access road approximately 300 feet in length is required from Eagle Park Road. There will be no tree removal nor wetland impacts necessary for the construction of this access road.

Your concurrence on this matter would be appreciated. If you have any questions or require additional information, please do not hesitate to contact me at mssmith@geiconsultants.com.

Sincerely,

GEI CONSULTANTS, INC., P.C.



Mallory Smith
Project Ecologist

JMP/MSS:mlr

Enclosures

c: G. Gibbons, M. Conway (Borrego)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

April 23, 2020

Josh Koppel
Borrego Solar Systems, Inc.
30 Century Hill Drive, Suite 301
Latham, NY 12110

Re: 381 N Highland Ave - Ossining
County: Westchester Town/City: Ossining

Dear Mr. Koppel:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our database. We cannot provide a definitive statement as to 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.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 3 Office, Division of Environmental Permits, at dep.r3@dec.ny.gov.

Sincerely,



Heidi Krahling
Environmental Review Specialist
New York Natural Heritage Program



**The following state-listed animals have been documented
at or in the vicinity of the project site.**

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed or are candidates for federal listing.

For information about any permit considerations for the project, please contact the NYSDEC Region 3 Office, Department of Environmental Permits, at dep.r3@dec.ny.gov, (845) 256-3054.

The following species has been documented throughout a non-breeding area that includes the project site, and nesting within 0.4 mile of the project site.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	FEDERAL LISTING
Birds			
Bald Eagle	<i>Haliaeetus leucocephalus</i>	Threatened	7329

The following species has been documented within 0.5 mile of the project site.

Birds			
Least Bittern <i>Breeding</i>	<i>Ixobrychus exilis</i>	Threatened	14097

The following species have been documented within 0.5 mile of the project site.

Fish				
Shortnose Sturgeon	<i>Acipenser brevirostrum</i>	Endangered	Endangered	11619
Atlantic Sturgeon	<i>Acipenser oxyrinchus</i>	No Open Season	Endangered	11464

Note: This area is also a state-significant Anadromous Fish Concentration Area

This report only includes records from the NY Natural Heritage database.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, and from NYSDEC at www.dec.ny.gov/animals/7494.html.