

STATE OF NEW YORK
OFFICE OF RENEWABLE ENERGY SITING

COMBINED NOTICE OF AVAILABILITY OF DRAFT PERMIT CONDITIONS,
PUBLIC COMMENT PERIOD AND PUBLIC COMMENT HEARING, AND
COMMENCEMENT OF ISSUES DETERMINATION PROCEDURE

Applicant: Horseshoe Solar Energy LLC
123 S. Cayuga Street, Suite 201
Ithaca, New York 14850

Facility Location: Town of Caledonia, Livingston County, New York
Town of Rush, Monroe County, New York

Applicant's Attorneys: John W. Dax, Esq.
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(518) 465-2333

ORES DMM Matter No.: 21-02480

Facility Description: Applicant applied to the New York State Office of Renewable Energy Siting (Office or ORES) for a permit pursuant to Executive Law § 94-c to construct and operate a 180-megawatt (MW) solar energy generating facility located in the Town of Caledonia, Livingston County, and the Town of Rush, Monroe County.

Applicant filed a transfer application from a pending Public Service Law (PSL) article 10 proceeding on December 23, 2021. Because an application completeness determination was issued in the PSL article 10 proceeding, the transfer application was deemed complete upon filing.

ORES staff published draft permit conditions on February 18, 2022. The draft permit conditions may be accessed at <https://ores.ny.gov/permit-applications>, click on Project DMM Matter Number 21-02480.

ORES Staff Position: On issuing the draft permit conditions, ORES staff takes the position that the proposed facility, together with the uniform and site-specific standards and conditions contained in the draft permit conditions, would comply with applicable laws and regulations. ORES staff recommends that the Office elect not to apply, in whole or in part, any local law or ordinance that as applied to the facility

is unreasonably burdensome in view of the Climate Leadership and Community Protection Act targets and the environmental benefits of the proposed facility.

Virtual Public Comment Hearing: A public comment hearing pursuant to 19 NYCRR part 900 to hear and receive unsworn comments from the public will be held on **Tuesday, April 26, 2022, at 5:00 p.m.** **The hearing will be conducted through the Webex Events electronic webinar platform and by telephone.**

All persons, organizations, corporations, or government agencies who may be affected by the facility are invited to attend the hearing and comment on the application and the draft permit conditions. Instructions on how to attend the hearing electronically or by telephone are provided below. Lengthy comments will not be accepted and instead should be submitted in writing. Equal weight will be given to both oral and written comments. To ensure that all interested persons have an opportunity to speak, the Administrative Law Judges (ALJs) may limit the time available for oral comments to 2 minutes per person.

Because the hearing is being conducted electronically, it is reasonably accessible to persons with a mobility impairment. Interpreter services shall be made available to deaf persons, and English language translator services shall also be made available, at no charge for either service, upon written request to ALJ Michael S. Caruso at New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550, email: ohms@dec.ny.gov. All requests must be received no later than 4:00 pm on April 5, 2022.

Instructions for Attending the April 26, 2022, Virtual Public Comment Hearing:

To join the 5:00 p.m. virtual public comment hearing through the internet, visit www.webex.com and click "Join a meeting."

Event Number: 2343 363 0780
Password: April26-5PM

To join the 5:00 p.m. hearing by phone only:

Dial: 1-518-549-0500
Access Code: 2343 363 0780

Persons wishing to comment on the application or the draft permit conditions will have the opportunity to make a statement at the public comment hearing. **Any person wishing to provide a public statement must register in advance of the hearing no later than 10:00 a.m. April 25, 2022.** Any person who wants only to observe the hearing online must also pre-register. Any person may listen to the hearing by phone without pre-registration.

To register electronically: Persons who will login to the hearing electronically must register. To register, visit <https://www.webex.com>, click "Join a meeting," input the event number listed above, click "Register," and fill in the requested information. You will be asked whether you wish to make a public statement or not. After registration is complete, you will receive a confirmation by email with information about how to join the hearing.

On the date and time of the hearing, participants should visit <https://www.webex.com>, click "Join a meeting" at the top right-hand corner of the screen, and input the event number for the hearing. Participants will be asked to "select audio system." It is recommended that participants choose to have the system "call me" or "call using computer." The "call me" option will require participants to enter their phone numbers.

To register by telephone: Any person who is not able to login electronically may participate by telephone. Call-in participants who wish to make a public comment must register in advance **no later than 10:00 a.m. on April 25, 2022**, by calling 1-518-473-4590 or by emailing general@ores.ny.gov. Please provide your first and last name, address, email address, if any, and telephone number and reference Horseshoe Solar public comment hearing.

On the day and time of the hearings, use the phone access phone number, (518) 549-0500, and the access code listed above to join the hearing.

All participants will be muted upon entry into the hearing. The ALJs will call on each person who has registered to speak. The ALJs will continue the hearing until everyone wishing to speak has been heard or other reasonable arrangements have been made to include their comments in the record. Lengthy comments should be summarized for oral presentation and submitted in writing as provided below. The hearing will be stenographically recorded for inclusion in the record.

Written Public Comments: Written comments concerning the application and the draft permit conditions must be filed with ORES by **5:00 p.m. on April 28, 2022**. Persons filing written comments are strongly encouraged to post their comments on the Department of Public Service's (DPS's) Document and Matter Management (DMM) system. To post a comment, go to <https://ores.ny.gov>, click on "Permit Applications," click on Project DMM Matter Number 21-02480, and click on "Post Comments" in the upper right-hand corner of the screen.

Written comments may also be emailed to ORES at general@ores.ny.gov or mailed to the Office of Renewable Energy Siting, Empire State Plaza, 240 State Street, P-1 South, J Dock, Albany, NY 12242. Written comments will be considered equally with oral statements delivered at the public comment hearing, provided they are postmarked by **April 28, 2022**, or e-mailed or posted on DMM by 5:00 p.m. on that date.

Issues Determination Procedure: Pursuant to 19 NYCRR 900-8.3(b), a pre-adjudicatory issues determination procedure will be conducted by the assigned ALJs. The procedure will be conducted solely on papers unless the ALJs, in their sole discretion, determine that oral argument is necessary. The purpose of the issues conference is to determine party status for any person or organization that has properly filed a petition (as indicated below), and to narrow and define those issues, if any, that will require adjudication in this matter. Participation in the issues determination procedure is limited to ORES staff, applicant, and those persons or organizations requesting party status. Issues proposed for adjudication must be both substantive and significant in accordance with 19 NYCRR 900-8.3(c).

Filing for Party Status: Persons seeking to participate in the issues determination procedure and any subsequent adjudicatory hearing must register on DMM and file a written petition explaining whether their request is for full party status or amicus status. For the required contents of petitions for full party status, see 19 NYCRR 900-8.4(c)(1) and (2). For the required contents of a petition seeking amicus status, see 19 NYCRR 900-8.4(c)(1) and (3). Petitioners may also file written briefs in support of their petitions.

All petitions requesting party status and briefs in support must be filed on DMM no later than **4:00 p.m. on April 28, 2022**. Instructions for registering in DMM and E-Filing documents may be found at:

<https://www3.dps.ny.gov/W/PSCWeb.nsf/All/CC256BE982C58CF785257687006F39CE?OpenDocument>.

Address all petitions to Michael S. Caruso, Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 1st Floor, 625 Broadway, Albany, New York, 12233-1550, email: michael.caruso@dec.ny.gov, and to Gregg Sayre, Administrative Law Judge, New York State Department of Public Service, Office of Hearings and Alternative Dispute Resolution, 3 Empire State Plaza, Albany, New York, 12223-1350, email: gregg.sayre@dps.ny.gov.

At the same time petitions and briefs are filed on DMM, a copy of all papers must be emailed to the ALJs at the email addresses above, and furnished to the applicant's attorneys, John W. Dax, Esq. and William F. McLaughlin, Esq., Hodgson Russ LLP, 2677 Broadway, Suite 301, Albany, New York 12207, email: jdax@hodgsonruss.com and wmclaugh@hodgsonruss.com and to ORES at the Office of Renewable Energy Siting, Empire State Plaza, 240 State Street, P-1 South, J Dock, Albany, NY 12242, (518) 473-4590, general@ores.ny.gov. Service of petitions and briefs by email is authorized provided they are received by all of the above parties and the ALJs by the 4:00 P.M. deadline.

Any questions about filing requirements or other hearing procedures may be addressed to the assigned ALJs by email. ORES's regulations may be found at <https://ores.ny.gov/regulations>.

Statement of Compliance with Local Laws and Regulations: Any municipality, political subdivision or an agency thereof that received notice of the filing of the application must file a statement indicating whether the proposed facility is designed to be sited, constructed and operated in compliance with applicable local laws and regulations in effect as of June 30, 2021, if any, concerning the environment, or public health and safety. The statement must be filed and served by the same deadline and in the same manner as petitions for party status. Any municipality, political subdivision or an agency thereof that proposes to adjudicate any issues related to a facility's compliance with local laws and regulations must file a petition for party status as provided for in 19 NYCRR 900-8.4(c) and include the statement of compliance with local laws and regulation.

Applicant Statement of Issues: No later than **4:00 p.m. on April 28, 2022**, applicant shall file and serve on ORES staff and the

ALJs a statement of issues applicant intends to raise with respect to any determination of the Office, and briefing in support. Applicant shall serve the statement of issues and brief on persons filing petitions for party status within five (5) days of such filing. For the required contents of an applicant's statement of issues, see 19 NYCRR 900-8.4(b)(1).

Responsive Briefing and Response to Comments: No later than **4:00 p.m. on May 13, 2022**, ORES staff may file and serve a response to any petitions for party status, any statement of issues by applicant, and the statement of compliance with local laws and regulations. By the same deadline, applicant may file and serve a response to any petition for party status or statement of compliance with local laws and regulations. In addition, the applicant shall file and serve on ORES staff a response to public comments received during the public comment period, including any supplemental information.

Document Availability: Copies of all application materials and draft permit conditions are available for inspection from the Office's Albany office during normal business hours: Contact the Office of Renewable Energy Siting, W.A. Harriman Campus, Building 9, 4th Floor, 1220 Washington Avenue, Albany, NY 12227, (518) 473-4590, general@ores.ny.gov. Electronic copies are available at <https://ores.ny.gov/permit-applications>, click on Project DMM Matter Number 21-02480.

Copies of all application materials are also available at: Caledonia Library, 3108 Main Street, Caledonia, NY 14423; Rush Public Library, 5977 East Henrietta Road, Rush, NY 14543; and Avon Free Library, 143 Genesee Street, Avon, NY 14414.

Statutory and Regulatory Provisions: The application is being processed and this proceeding is being conducted according to Executive Law § 94-c and 19 NYCRR part 900.

Michael S. Caruso
Administrative Law Judge

Gregg Sayre
Administrative Law Judge

February 22, 2022
Albany, New York