



STATE OF NORTH CAROLINA
DEPARTMENT OF ADMINISTRATION

ROY COOPER
GOVERNOR

MACHELLE SANDERS
SECRETARY

October 29, 2019

Ms. Kimberley Campbell
North Carolina Department of Commerce
Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Re: SCH File # 20-E-4600-0070; Amended Application of Apex Solar, LLC for Certificate to construct a 30 MW Solar Facility in Cleveland Co. Docket #SP-11723, Sub 0.

Dear Ms. Campbell:

The above referenced environmental impact information has been reviewed through the State Clearinghouse under the provisions of the North Carolina Environmental Policy Act.

Attached to this letter are comments made in the review of this document. Because of the nature of the comments, it has been determined that no further State Clearinghouse review action on your part is needed for compliance with the North Carolina Environmental Policy Act. The attached comments should be taken into consideration in project development.

Sincerely,

A handwritten signature in blue ink that reads "Crystal Best".

Crystal Best
State Environmental Review Clearinghouse

Attachments
cc: Region C

Mailing Address:
NC DEPARTMENT OF ADMINISTRATION
1301 MAIL SERVICE CENTER
RALEIGH, NC 27699-1301

Telephone: (919) 807-2425
Fax: (919) 733-9571
COURIER #51-01-00
Email: state.clearinghouse@doa.nc.gov
Website: www.ncadmin.nc.gov

Location:
116 WEST JONES STREET
RALEIGH, NORTH CAROLINA

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Oct 29 2019



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

JAMIE RAGAN
Director

MEMORANDUM

To: Crystal Best
State Clearinghouse Coordinator
NC Department of Administration

From: Lyn Hardison
Division of Environmental Assistance and Customer Service
Environmental Assistance and Project Review Coordinator
Washington Regional Office

RE: 20-0070 (18-0301)
Environmental Review - Amended Application of Apex Solar, LLC for
Certificate to construct a 30 MW Solar Facility, Docket #SP-11723
Sub O. Cleveland County

Date: October 25, 2019

The Department of Environmental Quality has reviewed the proposal for the referenced project. Based on the information provided, several of our agencies have identified permits that may be required and offered some valuable guidance to help reduce environmental impacts in and around the product area. The comments are attached for the applicant's review.

The Department's agencies will continue to be available to assist the applicant through the environmental review and permitting processes.

Thank you for the opportunity to respond.

Attachments






☒ North Carolina Wildlife Resources Commission ☒

Gordon Myers, Executive Director

MEMORANDUM

TO: Lyn Hardison, Environmental Assistance and SEPA Coordinator
NCDENR Division of Environmental Assistance and Customer Services

FROM: Olivia Munzer, Western Piedmont Coordinator 
Habitat Conservation

DATE: 20 June 2018

SUBJECT: Application of Apex Solar, LLC for a Certificate of Public Convenience and Necessity to Construct a 30-MW Solar Generating Facility, Cleveland County. Docket No. SP-11723 Sub 0. DEQ Project No. 18-0301.

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) have reviewed the proposed project description. Comments are provided in accordance with certain provisions of the North Carolina Environmental Policy Act (G.S. 113A-1 through 113A-10; 1 NCAC 25) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

Apex Solar, LLC proposes to construct one 30-MW solar generating facility located at Pony Barn Road in Lawndale, Cleveland County, North Carolina. The project is sited on agricultural and forested lands. An unnamed tributary of Buffalo Creek in the Broad River Basin flows through the site. Buffalo Creek is classified as Water Supply III stream by the N.C. Division of Water Resources (NCDWR). Solar projects should be sited to avoid impacts to wetlands, streams, riparian buffers and priority wildlife habitat. Constructing the solar facility primarily within the agricultural lands and avoiding clearing the forest will have less impact on aquatic and terrestrial wildlife species.

We have no records of state or federally rare, threatened or endangered species at or near the site. The lack of records from the site does not imply or confirm the absence of federal or state-listed species or state Species of Greatest Conservation Need listed in the 2015 State Wildlife Action Plan (<http://www.ncwildlife.org/plan>). An on-site survey is the only definitive means to determine if the proposed project would impact rare, threatened, or endangered species.

We offer the following recommendations to minimize impacts to aquatic and terrestrial wildlife resources:

1. The project footprint should be surveyed for wetlands and streams to ensure there are no impacts to surface waters. In addition to providing wildlife habitat, wetland areas and streams aid in flood control and water quality protection. United States Army Corps of Engineers Section 404 Permits and NCDWR Section 401 Certifications are required for any impacts to jurisdictional streams or wetlands.

2. Maintain a minimum 100-foot undisturbed, native, forested buffer along perennial streams, and a minimum 50-foot buffer along intermittent streams and wetlands. Maintaining undisturbed, forested buffers along these areas will minimize impacts to aquatic and terrestrial wildlife resources, water quality, and aquatic habitat both within and downstream of the project area. Also, wide riparian buffers are helpful in maintaining stability of stream banks and for treatment of pollutants associated with stormwater.
3. Re-seed disturbed areas with seed mixtures that are beneficial to wildlife. Avoid fescue-based mixtures because fescue is invasive and provides little benefit to wildlife. Consider planting native, wildflower seed mixes that will create pollinator habitat within the project boundary. Shade-tolerant plants that are within 12 to 18 inches can be selected for plantings both underneath and around the solar panels. Pollinator habitat can also be created in buffer areas outside of the panel region. **Planting native vegetation can reduce costs of maintenance.** Further information and **free** technical guidance from the NCWRC is available upon request.
4. Fencing around large solar facilities can impact wildlife movements. We recommend using wildlife-friendly fencing, such as leaving gaps at the bottom of the fence and avoid using barbed wire.
5. Avoid tree clearing activities during the maternity roosting season for bats (May 15 – August 15).
6. If overhead transmission lines will be installed, measures should be implemented to minimize impacts to birds. These can include increasing line visibility, insulating wires to cover exposed connections and increasing the distance between wires so no contact with ground or other energized wire can be made. For more information, see <http://www.fws.gov/birds/documents/powerlines.pdf>.
7. Sediment and erosion control measures should be installed prior to any land clearing or construction. The use of **biodegradable and wildlife-friendly sediment and erosion control devices** is strongly recommended. Silt fencing, fiber rolls and/or other products should have loose-weave netting that is made of natural fiber materials with movable joints between the vertical and horizontal twines. Silt fencing or similar materials that have been reinforced with plastic or metal mesh should be avoided as they impede the movement of terrestrial wildlife species. Excessive silt and sediment loads can have detrimental effects on aquatic resources including destruction of spawning habitat, suffocation of eggs and clogging of gills.
8. Develop a plan that identifies the party responsible for decommissioning the facility as well as the conditions under which decommissioning will occur. In addition, the plan should emphasize that all equipment must be removed from the site, and the land should be restored to pre-construction conditions.

Thank you for the opportunity to review and comment on this project. Please contact me at (919) 707-0364 or olivia.munzer@ncwildlife.org if there are any questions about these comments.

Department of Environmental Quality Project Review Form

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**Project Number: 20-0070
18-0301**

County: Cleveland

Date Received: 10/2/2019

Due Date: 10/25/2019

Project Description: Environmental Review - Amended Application of Apex Solar, LLC for Certificate to construct a 30 MW Solar Facility in Cleveland Co. Docket #SP-11723, Sub 0. Additional Land

Go to <http://starw1.ncuc.net/NCUC/portal/ncuc/page/Dockets/portal.aspx> and enter docket number (SP-11723 Sub 0) in the docket number slot, enter and click on the docket number in blue, then click on document for the information. Click on the acrobat symbol to see the info – Located West of Plainsview Church Rd. Lawndale NC 28090, GPS: 35.414 N, 81.478 W

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This Project is being reviewed as indicated below:

Regional Office	Regional Office Area	In-House Review
<input type="checkbox"/> Asheville	<input type="checkbox"/> Air	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Fayetteville	<input checked="" type="checkbox"/> DWR	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Mooresville	<input type="checkbox"/> DWR - Public Water	<input type="checkbox"/> Waste Mgmt
<input type="checkbox"/> Raleigh	<input checked="" type="checkbox"/> DEMLR (LQ & SW)	<input type="checkbox"/> Water Resources Mgmt (Public Water, Planning & Water Quality Program)
<input type="checkbox"/> Washington	<input type="checkbox"/> DWM-UST	<input type="checkbox"/> DWR-Transportation Unit
<input type="checkbox"/> Wilmington		<input type="checkbox"/> Coastal Management
<input type="checkbox"/> Winston-Salem		<input type="checkbox"/> DCM-Marine Fisheries
		<input type="checkbox"/> Military Affairs
		<input type="checkbox"/> DMF-Shellfish Sanitation
		<input checked="" type="checkbox"/> Wildlife <u>Olivia Munzer</u>
		<input type="checkbox"/> Wildlife - DOT

Manager Sign-Off/Region:	Date: 21 October 2019	In-House Reviewer/Agency: Olivia Munzer/NCWRC
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Response (check all applicable)

No objection to project as proposed. No Comment

Insufficient information to complete review Other (specify or attach comments)

No additional comments to those provided by NCWRC on 20 June 2018

If you have any questions, please contact:
Lyn Hardison at lyn.hardison@ncdenr.gov or (252) 948-3842
943 Washington Square Mall Washington NC 27889
Courier No. 16-04-01

State of North Carolina Department of Environmental Quality
 INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: MRO
 Project Number: 20-0070 Due Date: 10/25/2019
 County: Cleveland

After review of this project it has been determined that the DEQ permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Processing Time (statutory time limit)
<input type="checkbox"/>	Permit to construct & operate wastewater treatment facilities, non-standard sewer system extensions & sewer systems that do not discharge into state surface waters.	Application 90 days before begins construction or award of construction contracts. On-site inspection may be required. Post-application technical conference usual.	30 days (90 days)
<input type="checkbox"/>	Permit to construct & operate, sewer extensions involving gravity sewers, pump stations and force mains discharging into a sewer collection system	Fast-Track Permitting program consists of the submittal of an application and an engineer's certification that the project meets all applicable State rules and Division Minimum Design Criteria.	30 days (N/A)
<input type="checkbox"/>	NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begins activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
<input type="checkbox"/>	Water Use Permit	Pre-application technical conference usually necessary.	30 days (N/A)
<input type="checkbox"/>	Well Construction Permit	Complete application must be received and permit issued prior to the installation of a groundwater monitoring well located on property not owned by the applicant, and for a large capacity (>100,000 gallons per day) water supply well.	7 days (15 days)
<input type="checkbox"/>	Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filling may require Easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
<input type="checkbox"/>	Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
<input type="checkbox"/>	Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
<input type="checkbox"/>	Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 20.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950	Please Note - The Health Hazards Control Unit (HHCU) of the N.C. Department of Health and Human Services, must be notified of plans to demolish a building, including residences for commercial or industrial expansion, even if no asbestos is present in the building.	60 days (90 days)
<input checked="" type="checkbox"/>	The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres are to be disturbed. Plan must be filed with and approved by applicable Regional Office (Land Quality Section) at least 30 days before beginning activity. A NPDES Construction Stormwater permit (NCG010000) is also usually issued should design features meet minimum requirements. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
<input type="checkbox"/>	Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable Stormwater conveyances and outlets.		(30 days)
<input type="checkbox"/>	Sedimentation and erosion control must be addressed in accordance with _____ Local Government's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable Stormwater conveyances and outlets.		Based on Local Program
<input type="checkbox"/>	Compliance with 15A NCAC 2H .0126 - NPDES Stormwater Program which regulates three types of activities: Industrial, Municipal Separate Storm Sewer System & Construction activities that disturb ≥1 acre.		30-60 days (90 days)
<input type="checkbox"/>	Compliance with 15A NCAC 2H 1000 -State Stormwater Permitting Programs regulate site development and post-construction stormwater runoff control. Areas subject to these permit programs include all 20 coastal counties, and various other counties and watersheds throughout the state.		45 days (90 days)

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State of North Carolina Department of Environmental Quality
 INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: MRO
 Project Number: 20-0070 Due Date: 10/25/2019
 County: Cleveland

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	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Processing Time (statutory time limit)
<input type="checkbox"/>	Mining Permit	On-site inspection usual. Surety bond filed with DEQ Bond amount varies with type mine and number of acres of affected land. Affected area greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
<input type="checkbox"/>	Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to: prepare plans, inspect construction, and certify construction is according to DEQ approved plans. May also require a permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage of the total project cost will be required upon completion.	30 days (60 days)
<input type="checkbox"/>	Oil Refining Facilities	N/A	90-120 days (N/A)
<input type="checkbox"/>	Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with DEQ running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to DEQ rules and regulations.	10 days N/A
<input type="checkbox"/>	Geophysical Exploration Permit	Application filed with DEQ at least 10 days prior to issue of permit. Application by letter. No standard application form.	10 days N/A
<input type="checkbox"/>	State Lakes Construction Permit	Application fee based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property	15-20 days N/A
<input checked="" type="checkbox"/>	401 Water Quality Certification	Compliance with the T15A 02H .0500 Certifications are required whenever construction or operation of facilities will result in a discharge into navigable water as described in 33 CFR part 323.	60 days (130 days)
<input type="checkbox"/>	Compliance with Catawba, Goose Creek, Jordan Lake, Randleman, Tar Pamlico or Neuse Riparian Buffer Rules is required. Buffer requirements: http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/401-wetlands-buffer-permits/401-riparian-buffer-protection-program		
<input type="checkbox"/>	Nutrient Offset: Loading requirements for nitrogen and phosphorus in the Neuse and Tar-Pamlico River basins, and in the Jordan and Falls Lake watersheds, as part of the nutrient-management strategies in these areas. DWR nutrient offset information: http://deq.nc.gov/about/divisions/water-resources/planning/nonpoint-source-management/nutrient-offset-information		
<input type="checkbox"/>	CAMA Permit for MAJOR development	\$250.00 - \$475.00 fee must accompany application	75 days (150 days)
<input type="checkbox"/>	CAMA Permit for MINOR development	\$100.00 fee must accompany application	22 days (25 days)
<input checked="" type="checkbox"/>	Abandonment of any wells, if required must be in accordance with Title 15A. Subchapter 2C.0100.		
<input type="checkbox"/>	Notification of the proper regional office is requested if "orphan" underground storage tanks (USTS) are discovered during any excavation operation.		
<input type="checkbox"/>	Plans and specifications for the construction, expansion, or alteration of a public water system must be approved by the Division of Water Resources/Public Water Supply Section prior to the award of a contract or the initiation of construction as per 15A NCAC 18C .0300 et. seq., Plans and specifications should be submitted to 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. All public water supply systems must comply with state and federal drinking water monitoring requirements. For more information, contact the Public Water Supply Section, (919) 707-9100.		30 days
<input type="checkbox"/>	If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources/Public Water Supply Section at 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. For more information, contact the Public Water Supply Section, (919) 707-9100.		30 days
<input type="checkbox"/>	Plans and specifications for the construction, expansion, or alteration of the _____ water system must be approved through the _____ delegated plan approval authority. Please contact them at _____ for further information.		

State of North Carolina Department of Environmental Quality
 INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: MRO
 Project Number: 20-0070 Due Date: 10/25/2019
 County: Cleveland

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Other Comments (attach additional pages as necessary, being certain to comment authority)

Division	Initials	No comment	Comments	Date Review
DAQ		<input type="checkbox"/>		/ /
DWR-WQROS (Aquifer & Surface)	AHP &	<input type="checkbox"/>	In reference to the map and related documents provided, DWR-WQROS has effectively the same comments as during the previous submittal: 1) it appears that a Section 401 Certification may be necessary (box checked). Potential stream impacts should be determined prior to construction. 2) NPDES Stormwater Permitting may be required through DEMLR. 3) If located, wells should be properly abandoned (box checked). &	10/25/19 / /
DWR-PWS		<input type="checkbox"/>		/ /
DEMLR (LQ & SW)	ZSK	<input type="checkbox"/>	See above	10/4/19
DWM – UST		<input type="checkbox"/>		/ /
Other Comments		<input type="checkbox"/>		/ /

REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

- | | | |
|---|---|---|
| <input type="checkbox"/> Asheville Regional Office
2090 U.S. 70 Highway
Swannanoa, NC 28778-8211
Phone: 828-296-4500
Fax: 828-299-7043 | <input type="checkbox"/> Fayetteville Regional Office
225 Green Street, Suite 714,
Fayetteville, NC 28301-5043
Phone: 910-433-3300
Fax: 910-486-0707 | <input checked="" type="checkbox"/> Mooresville Regional Office
610 East Center Avenue, Suite 301,
Mooresville, NC 28115
Phone: 704-663-1699
Fax: 704-663-6040 |
| <input type="checkbox"/> Raleigh Regional Office
3800 Barrett Drive,
Raleigh, NC 27609
Phone: 919-791-4200
Fax: 919-571-4718 | <input type="checkbox"/> Washington Regional Office
943 Washington Square Mall,
Washington, NC 27889
Phone: 252-946-6481
Fax: 252-975-3716 | <input type="checkbox"/> Wilmington Regional Office
127 Cardinal Drive Ext.,
Wilmington, NC 28405
Phone: 910-796-7215
Fax: 910-350-2004 |
| | <input type="checkbox"/> Winston-Salem Regional Office
450 Hanes Mill Road, Suite 300,
Winston-Salem, NC 27105
Phone: 336-776-9800
Fax: 336-776-9797 | |

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

John Andy Bailey
Dominique Boyd

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Oct 29 2019

COUNTY: CLEVELAND

H11: ENERGY RELATED
FACILITIES/ACTIVITIES

STATE NUMBER: 20-E-4600-0070
DATE RECEIVED: 09/25/2019
AGENCY RESPONSE: 10/21/2019
REVIEW CLOSED: 10/25/2019

MS CARRIE ATKINSON
CLEARINGHOUSE COORDINATOR
DEPT OF TRANSPORTATION
STATEWIDE PLANNING - MSC #1554
RALEIGH NC

REVIEW DISTRIBUTION

DEPT OF AGRICULTURE
DEPT OF ENVIRONMENTAL QUALITY
DEPT OF NATURAL & CULTURAL RESOURCE
DEPT OF TRANSPORTATION
DNCR - NATURAL HERITAGE PROGRAM
DPS - DIV OF EMERGENCY MANAGEMENT
ISOTHERMAL PLANN & ECON DEV

Transportation Planning
Division

SEP 27 2019

PROJECT INFORMATION

APPLICANT: North Carolina Department of Commerce
TYPE: State Environmental Policy Act
Environmental Review

DESC: Amended Application of Apex Solar, LLC for Certificate to construct a 30 MW Solar Facility in Cleveland Co. Docket #SP-11723, Sub 0. - View document at <http://starwl.ncuc.net/NCUC/portal/ncuc/page/Dockets/portal.aspx>, Type SP-11723 Sub 0 in the Docket Number search line.

Located on the west side of Plainsview Church Road, approximately .5 miles west of the intersection with East Stage Coach Trail, Lawndale, NC

Amended due to the additional land that has been added to the facility.

CROSS-REFERENCE NUMBER: 18-E-4600-0301

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: NO COMMENT COMMENTS ATTACHED

SIGNED BY: 

DATE: 10/17/19