

NOTICE OF SUBMISSION OF APPLICATION FOR SECTION 401 WATER QUALITY CERTIFICATE

Excelsior Energy Center, LLC (Excelsior) has received authority from the New York State Board on Electric Generation Siting and the Environment (Siting Board) to construct a 280-megawatt (MW) solar electric generating facility (the Project) in the Town of Byron, Genesee County, New York under Article 10 of the New York State Public Service Law (PSL). Excelsior received a Certificate of Environmental Compatibility and Public Need from the Siting Board on April 6, 2022. Pursuant to 16 NYCRR § 1000.8, Excelsior hereby provides notice that, on or about October 21, 2022, it intends to file its Request for Issuance of a Water Quality Certification under Section 401 of the Clean Water Act (CWA). The Project qualifies for a self-authorizing Nationwide Permit (NWP) due to limited permanent impacts to federal-jurisdictional Waters of the United States (WOTUS). Therefore, no Pre-Construction Notification (PCN) is required for the Project. A Pre-filing Meeting Request was filed for the Project on April 1, 2022, and a request for a Preliminary Jurisdictional Determination (PJD) was filed with the U.S. Army Corps of Engineers (USACE) and was deemed complete on August 6, 2021.

The NWP self-authorization covers the permits/approvals required to construct and/or operate the Project under Section 404 of the Clean Water Act. In connection therewith, Excelsior is requesting that the Section 401 Water Quality Certification be issued by the Siting Board. A Joint Application for Permit Form will be filed with the WQC Request which includes a description of the Project and its components and construction, an analysis of the environmental setting of the Project, results from analyses conducted to assess potential impacts to aquatic resources and jurisdictional waters (e.g., wetlands and streams), and measures that will be implemented to avoid or minimize environmental impacts to the maximum extent practicable. As shown in the Article 10 Application, construction and operation of the Project will not result in adverse impacts to water resources. The Article 10 Application, Joint Application for Permit Form and self-authorization, also address compliance with the Endangered Species Act and the Historic Preservation Act.

All public documents filed in this proceeding, the Request for Issuance of the Section 401 Water Quality Certificate which includes the Joint Application for Permit Form, may be viewed at the DPS website located and www.dps.ny.gov by clicking "Search" on the homepage and then entering Case 19-F-0299 in the field titled "Search by Case Number."

A copy of the Request for Issuance of the Water Quality Certification will be served on the Town Supervisor of the Town of Byron. The documents, when filed, may be examined during normal business hours at the Offices of the Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, and at the following local document repositories:

- Town of Byron Town Hall, 7028 Byron Holly Road, Byron, NY 14422
- Byron-Bergen Public Library, 13 South Lake Avenue, Bergen, NY 14416

A map of the Project is shown below.

