

**STAFF DRAFT – NOT APPROVED BY AGENCY**  
**THIS IS A TWO-SIDED DOCUMENT**

 <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p><b>DRAFT</b> APA Permit <b>2022-0046</b></p>
<p>In the Matter of the Application of</p> <p><b>BR PROJECT 1, LLC; BENSON MINES, INC.; and ST. LAWRENCE COUNTY</b> <b>Permittees</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued: <b>XXXX</b></p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. BR Project 1, LLC</b></li><li><b>2. Benson Mines, Inc.</b></li><li><b>3. St. Lawrence County</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This permit authorizes a major public utility use (i.e., solar generation facility) in an area classified Industrial Use and Resource Management on the Adirondack Park Land Use and Development Plan Map, and a two-lot subdivision in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map, in the Town of Clifton, St. Lawrence County.

This authorization shall expire unless recorded in the St. Lawrence County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within five years of the date the permit is recorded in the County Clerk's Office. The Agency will consider the project in existence when the solar generation facility has been constructed.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

### **PROJECT SITE**

The 1,021.45±-acre project site consists of the following land<sup>1</sup> located on both sides of State Route 3 and County Route 6 (i.e., Newton Falls Road) in the Town of Clifton, St. Lawrence County:

- the 300.25±-acre portion of tax parcel 214.-4-21.1 located south of State Route 3 and classified Industrial Use (259.57± acres) and Resource Management (40.68± acres) on the Adirondack Park Land Use and Development Plan Map;
- the 711.60±-acre portion of tax parcel 214.-4-24 located on both sides of State Route 3 and classified Industrial Use (515.58± acres) and Resource Management (196.02± acres) on the Adirondack Park Land Use and Development Plan Map;
- the 4.70± acre tax parcel 224.-8-2 located south of State Route 3 and classified Industrial Use on the Adirondack Park Land Use and Development Plan Map; and
- the 4.90±-acre tax parcel 224.-8-4 located north of State Route 3 and classified Industrial Use on the Adirondack Park Land Use and Development Plan Map.

Tax parcels 214.-4-21.1 and 214.-4-24 are described in a deed from the Benson Iron Ore Trust to Benson Mines, Inc., dated July 9, 1980, and recorded July 24, 1980 in the St. Lawrence County Clerk's Office in Liber 951 at Page 1086. Tax parcels 224.-8-2 and 224.-8-4 are described in a deed from County of St. Lawrence to County of St. Lawrence, dated January 7, 2016, and recorded January 26, 2016 in the St. Lawrence County Clerk's Office as Instrument R-2016-947.

The project site contains shoreline on the Little River and an un-named water body on the project site's southern property line, as well as various un-named mine reclamation ponds. The southern-most portion of project site is located within one-eighth mile of tracts of forest preserve classified wilderness (i.e., the Five Ponds Wilderness). A separate portion of the project site is located within 300 feet of a state highway (i.e., State Route 3). The project site also contains wetlands as shown on the Project Plans and as described in the "Wetland and Stream Delineation Report, BR Benson Mines Solar Project," prepared by TRC, and dated August 2021 (Wetland Report). Additional wetlands not described herein or depicted on the Project Plans or Wetland Report may be located on or adjacent to the project site.

Portions of the project site (i.e., tax parcels 224.-8-2 and 224.-8-4) are subject to a New York State Department of Environmental Conservation (NYSDEC) "Environmental Easement Granted Pursuant to Article 71, Title 36 of the New York State Environmental Conservation Law," dated June 6, 2014 and signed by St. Lawrence County on June 9, 2014.

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<sup>1</sup> The acreages given do not include open water.

The project is proposed on a tailings pile located south of State Route 3, resulting from the Benson Mines iron ore mine that closed in the 1970s.

The project site contains a boat wash facility located north of State Route 3, east of County Route 60, and south of the Little River, as authorized by Permits 2015-0195 and 2015-0195A. The project site also contains a mineral extraction involving the removal of mine tailings, rock screening, and rock crushing, located north of State Route 3, east of County Route 60, and north of the Little River, as authorized by Permit 2010-0073.

### **PROJECT DESCRIPTION**

The project as conditionally approved herein involves the construction of a 20MW solar generation facility on the Benson Mine's iron ore tailings pile located south of NY State Route 3. The solar array system will occupy approximately 111.5 acres and consist of single-axis tracker solar panels with a maximum height of 15 feet.

The project will interconnect to the electric power grid via a line tap to the transmission lines north of the existing Star Lake Substation, which is north of NYS Route 3 and adjacent to the solar array site. Electric collection lines will be installed underground from the solar array to the existing substation, using horizontal directional drilling beneath State Route 3, with the exception of utility pole installation above ground next to the existing substation.

The project also includes a two-lot subdivision by lease in the Resource Management land use area.

Existing access to the project site is from State Route 3 and will be improved and used for access to the solar generation facility.

The project is shown on the following maps, plans, and reports:

- 1-page map titled "BR Benson Mines Solar, Clifton, NY, Subdivision by Lease," prepared by TRC, and dated April 2022 (Subdivision Map);
- 28 sheets of plans titled "BR Benson Mines Solar Project, New York State Energy Research and Development Authority, Clifton, St. Lawrence County, New York," prepared by TRC Engineers, LLC, and last dated February 25, 2022, except for Sheets C-300 to C-304 (Site Plan) and Sheet L-100 (Landscaping Plan) that are last dated March 31, 2022 (Project Plans);
- 11-page plan titled "NYSERDA BR Benson Mines Solar Landscape Development Plan," prepared by TRC, and dated July 2022 (Landscaping Plan);
- 77-page report titled "Visual Impact Assessment, BR Benson Mines 20 MW Solar Project," prepared by TRC, and last dated February 2022 (Visual Analysis);
- 1099-page report (with appendices) titled "Stormwater Pollution Prevention Plan (SWPPP), BR Benson Mines Solar Project," prepared by TRC, and last revised July 2022 (SWPPP);
- 585-page Appendix P of the SWPPP titled "Alternative Stormwater Design" and described in an included 2-page memo titled "Stormwater Management Design

Re-evaluation,” prepared by TRC, and dated July 12, 2022 (Alternative Stormwater Design); and

- 6-page report titled “Decommissioning Plan, 20.0MW Ground-Mounted Solar Array, BR Benson Mines 20.0MW Solar Array,” prepared by TRC, and dated January 31, 2022 (Decommissioning Plan).

A reduced-scale copy of the Subdivision Map and Sheet C-100 (Overall Site Layout) of the Project Plans are attached as a part of this permit for reference.

### **AGENCY JURISDICTION**

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to the establishment of a major public utility use on Industrial Use and Resource Management lands in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision in a Resource Management land use area in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision of or new land use or development on Resource Management lands within one-eighth mile of tracts of forest preserve classified wilderness and within 300 feet of the edge of right-of-way of state highways in the Adirondack Park.

### **CONDITIONS**

#### **THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit has been recorded in the St. Lawrence County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the solar generation facility remains on the site or the lease is in effect. Copies of this permit and Subdivision Map, Project Plans, Landscape Plan, Visual Analysis, Draft SWPPP, and Decommissioning Plan shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. All conditions in Permits 2015-0195, 2015-0195A, and 2010-0073 remain in full force and effect.

5. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2022-0046, issued **XXXX**, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
6. This permit authorizes a two-lot subdivision by lease as depicted on the Subdivision Map. Any subdivision of the project site not depicted on the Subdivision Map shall require prior written Agency authorization.
7. This permit authorizes the construction of a major public utility use (i.e., solar generation facility and associated site development) in the location shown and as depicted on the Project Plans and Visual Analysis. Any change to the location, dimensions, or other aspect of the major public utility use shall require prior written Agency authorization.
8. Any change to the utility route or infrastructure connecting the solar generation facility to the Point of Interconnection as shown on the Project Plans, including the utilization of methods other than horizontal directional drilling, shall require prior written Agency authorization. The installation of any utility pole greater than 40 feet in height, as measured from the highest point on the structure to the lower of either existing or finished grade, shall require prior written Agency authorization.
9. The project shall be undertaken in compliance with the SWPPP. Any change to the SWPPP, for example as described in the Alternative Stormwater Design referenced herein, shall require prior written Agency authorization.
10. The project shall be undertaken in compliance with the Erosion and Sediment Control Plan depicted on the Project Plans.
11. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.
12. Installation of any exterior lighting associated with the major public utility use on the project site shall require prior written Agency authorization.
13. All signs associated with the major public utility use on the project site shall comply with the Agency's "Standards for Signs Associated with Projects" [9 NYCRR Part 570, Appendix Q-3].

14. South of State Route 3 and outside the fenced area shown on the Project Plans, no trees, shrubs, or other woody stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except for a) trees within the “selective tree clearing” area, b) trees, shrubs, or other woody stemmed vegetation from site access corridors, utility lines, and snowmobile trails as shown on the Project Plans, and c) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard. As stated on Sheet L-100 of the Project Plans, no machines shall be used for tree, shrub, or vegetation management within 100 feet of wetland EES-5 located south of the lease area.
15. All seed mixes depicted in the Landscaping Plan and on Sheet L-100 of the Project Plans shall be planted and maintained as described on those plans. Seed mixes shall be planted no later than the first spring or fall planting season after final grading related to the construction of the solar generation facility on the project site. Any vegetation that does not survive shall be replaced annually for a period of five years, until established in a healthy growing condition.
16. Mowing within the fenced area of the leased area of the project site shall only occur between November 1 and May 1 of any year, except for selective trimming of vegetation that exceeds 3 feet in height.
17. The application of any pesticides or herbicides within the leased area of the project site shall require prior written Agency authorization.
18. The Agency shall be provided with color photographs showing the completed project within 30 days of completion. Photographs shall be taken at the project site and from Viewpoint 22 (i.e., State Route 3) of the Visual Analysis. All photographs be taken on a clear day and identify the date the picture was taken, the location of the photograph, and the lens size employed.
19. Prior to construction of the solar generation facility as authorized herein, the Agency shall be provided with a copy of a bond, letter of credit or other confirmation of surety to provide for implementation of the Decommissioning Plan. Any change to or any termination or transfer of bond, letter of credit, or other surety shall require prior written Agency authorization.
20. Except pursuant to written approval by the Agency, within one year of the solar generation facility ceasing to produce power, all infrastructure associated with the facility shall be removed and the site shall be restored to pre-development conditions at the owner's and/or operator's expense pursuant to the Decommissioning Plan. Any change to the Decommissioning Plan shall require prior written Agency authorization.
21. Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, the construction of any principal building on the project site shall require a new or amended permit.

22. Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, the undertaking of any new land use or development not authorized herein on the Resource Management portion of the project site and within 300 feet of the right of way of State Route 3 or on any portion of the project site within one-eighth mile of the Five Ponds Wilderness area will require a new or amended permit.
23. The undertaking of any activity involving wetlands also requires a new or amended permit.

### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Industrial Use and Resource Management land use areas;
- c. will be consistent with the overall intensity guidelines for the Industrial Use and Resource Management land use areas;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act; and
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project.

PERMIT issued this        day  
of                                , 2022.

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_

John M. Burth  
Environmental Program Specialist 3 (EPS3)

STATE OF NEW YORK  
COUNTY OF ESSEX

On the        day of                                in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared John M. Burth, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public

