

**Permitting Table – Lynn Bark Solar Project – Martin County, Kentucky**

Permit / Activity / Consultation	Agency	Regulatory Trigger
<b>FEDERAL</b>		
<b>Clean Water Act Section 404 Permit and Jurisdictional Determination</b>	United States Army Corps of Engineers (USACE), Huntington District	Impacts to jurisdictional wetlands and waters of the United States.
<b>National Environmental Policy Act (NEPA) Environmental Assessment (EA) or Environmental Impact Statement (EIS)</b>	Lead federal agencies could include U.S. Army Corps of Engineers (USACE) or U.S. Fish and Wildlife Service (USFWS). The President's Council on Environmental Quality (CEQ) issues general NEPA regulations. For impacts in excess of 0.5 acre or 300 linear feet that triggers an USACE Individual Permit(IP)	Federal agency action (specific NEPA triggers vary by agency). Potential triggers include wetlands permitting (USACE), Endangered Species Act (ESA) compliance (USFWS), or U.S. Department of Agriculture (USDA) Rural Development funding.
<b>Endangered Species Act (ESA), Section 7 Consultation</b>	United States Fish and Wildlife Services (USFWS) Kentucky Ecological Services Field Office	A federal nexus (e.g., Section 404 permit) would trigger this consultation. Federal agencies are required consult with the USFWS in order to authorize a project when the activity may affect listed federal T&E species.
<b>Endangered Species Act (ESA), Section 10 Consultation (Incidental Take Permit)</b>	USFWS	Believe that project will result in incidental take of a federal threatened or endangered species.
<b>Migratory Bird Treaty Act (MBTA) Compliance</b>	USFWS	The act prohibits the take and harvest of migratory birds and nests.
<b>Bald and Golden Eagle Protection Act (BGEPA) Compliance</b>	USFWS	The act protects eagles, including their parts, nests, and eggs by prohibiting their take, possession, or commerce.
<b>National Historic Preservation Act (NHPA) Section 106</b>	Kentucky Heritage Council (State Historic Preservation Office (SHPO))	A federal nexus (e.g., Section 404 permit) would trigger Section 106 compliance and requires consultation for those permit areas. The USACE has an obligation to consider impacts to cultural resources and would complete the formal federal consultation.
<b>Phase I Cultural Resources and Archeological Survey (PHI CRAS) for compliance with Section 106 of the National Historic Preservation Act (35 C.F.R. Part 800)</b>	Kentucky Heritage Council (KHC/SHPO)	For Section 106 compliance if federal or state nexus occurs, potential impact to culturally significant resources related to cultural history and Indian religious sites. Assessment of structures and archaeological resources.
<b>Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (ASTM Phase I Environmental Site Assessment) (ESA)</b>	Environmental Protection Agency (EPA) / ASTM International (ASTM)	Phase I ESA is recommended to identify contaminated properties and recognized environmental conditions for development financing. No official permit needed.
<b>Federal Aviation Administration (FAA) Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)</b>	FAA, Air Traffic Office of Obstruction Evaluation Services	Required if construction occurs within proximity to airport, air traffic routes, or military training routes.
<b>Form FAA 7460-1 Notice of Proposed Construction</b>	Federal Aviation Administration (FAA)	<p>A project must file with the FAA at least 45 days prior to construction if:</p> <ul style="list-style-type: none"> <li>• a structure will exceed 200 feet above ground level,</li> <li>• a structure will be in proximity to an airport and will exceed the slope ratio,</li> <li>• a structure involves construction of a traverseway (i.e. highway, railroad, waterway etc...) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b),</li> <li>• a structure will emit frequencies, and does not meet the conditions of the FAA Co-location Policy, <ul style="list-style-type: none"> <li>• a structure will be in an instrument approach area and might exceed part 77 Subpart C,</li> </ul> </li> <li>• a proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception, <ul style="list-style-type: none"> <li>• a structure will be on an airport or heliport, or</li> <li>• a filing has been requested by the FAA.</li> </ul> </li> </ul>

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<b>Spill Prevention, Control and Countermeasure (SPCC) Plan 40 C.F.R. Part 112</b>	U.S. Environmental Protection Agency (EPA), Region 4	Required if facility exceeds threshold (1,320 gallons of oil and related products) of oil or related product storage.
<b>U.S. Bureau of Indian Affairs /Tribal Consultation</b>	U.S. Bureau of Indian Affairs (BIA)	Project is located on or adjacent to tribal lands.
<b>COMMONWEALTH OF KENTUCKY</b>		
<b>Construction Certificate</b>	Kentucky Public Service Commission (KYPSC)	Per KRS 278.704, "No person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility."
<b>Site Assessment Report</b>	KYPSC	Per KRS 278.708, "Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board."
<b>Floodplain Construction Permit</b>	Kentucky Division of Water (KY DOW)	Endorsement of local administrator is required before a state floodplain construction permit can be processed.  In Martin County, Kayla May (kayla.may@martincountyky.com) would be responsible for endorsing as the local administrator.
<b>Clean Water Act Section 401 Water Quality Certification</b>	KY DOW	Required when a Section 404 Individual Permit is needed. If stream and/or wetland impacts meet the threshold for a Section 404 Nationwide Permit (NWP), the applicant automatically obtains a Section 401 Water Quality Certification (i.e., separate coordination and submittal for a Section 401 Water Quality Certification (WQC) would not be required).
<b>Encroachment Permit</b>	Kentucky Transportation Commission	An encroachment permit would be required if the site plans to utilize an access road from a road within the state highway system.
<b>Stormwater General Permit KYR 10 - KPDES</b>	KY DOW	A general construction permit would be required for land disturbing activities impacting one acre or greater in association with the construction of the Project.
<b>MARTIN COUNTY</b>		
<b>Martin County</b>	N/A	N/A