

Town of Harpersfield Planning Board

Minutes: **January 25, 2023**

Present: D. Darling, W. Keller, F. Ciulla, A. Gallagher and D. King.

Also present: L. Page, N. Brower, Jon McManus, C. J. Karcher, Susan Fortier, Carrie Sloan, Julian DePauli, Steven Weiner, Anthony DiMarco, Ulla Wadner, Richard Winter, Robert Schneider, Matthew Horelick, Colleen Bisceglia, Russell Bedford, Laurel Bedford, Joe Ferla, Chris Ferla, Pete Abrams and Juliet Secho.

Chairman D. Darling called the meeting to order at 7 p.m..

In the absence of K. All, A . Gallagher will be a voting member of the planning board.

On a motion by D. King, with a second by W. Keller the Nov. 30, 2022 minutes were approved as presented. Motion carried 5-0.

Prior to the continuation of the Delaware River Solar public hearing, D. Darling asked to move the Bedford Boundary Line adjustment ahead of the hearing on the agenda. The Bedfords would like to add the property on which the barn is located back to the original parcel. The two barns and a bunk silo will now go with the house property. This leaves two large parcels of 135 acres and 125/6 acres from 260 acres. The two large lots will now have to be perc tested. The house lot will be 12.5 acres, with .3 acres now added to the house lot. It was recommended they do a subdivision.

The continued hearing for Delaware River Solar was opened at 7:24 p.m. Robert Chiappisi was present for Delaware Engineering Professional Services. He is being retained to consult on both the Delaware River Solar and Bruce Hill Road solar projects. D. Darling explained the town board approved the hiring of an engineer for the projects through the establishment of escrow accounts for each of the solar projects.

Rich Winter was present for Delaware River Solar as a majority owner of the company (CEO). K. Sullivan was not present for the meeting. It was expected she would be present with responses to previous questions about the project. R. Winter indicated he would like to have all of the requests at one time. He said there has been three months of the public hearing to receive comments.

Steve Wiener said he has lived here full time for 23 years. He has questions for the planning board. If the applicant meets all the criteria for the site plan, then the planning

board must approve the project?

D. Darling explained the planning board must consider all the environmental issues, structures, etcetera. There is nothing to specify yes or no.

S. Wiener than read his prepared statement (see attached). He is seeking a moratorium on solar projects for the town to allow changes or corrections to the local laws.

He also disputed R. Winter's request to close the hearing, saying questions from two months ago have not been answered. R. Winter asked what questions had not been answered. Members of the public responded by asking questions.

R. Winter responded by saying there will be a decommissioning plan based on the engineers and NYSERDA . He said he would be happy to post information on the company's website and promised to do that by early the following week.

C. Ferla said there was a decommissioning plan when it was the Cypress Creek project. R. Winter said this project is one-third the size and the plan does not come out of thin air, but is based on what NYSERDA recommends. He said it is the hope the materials can be repurposed and sold to help defray the cost of decommissioning.

He also said the company attempts to purchase the land, which they have done for hundreds of projects. They are generally putting solar farms on farms by taking acreage out of the whole farm. He said there is a quarterly magazine that explains how solar farms actually benefit a farm. He said in most cases, the family does not want to break up the acreage of the total farm and therefor leases the property.

As for no sun to produce solar, he said it is a profit and loss business that they would not be doing if it was losing money. Part of that is due to federal subsidies in the form of federal tax credits. In NYS it is a straight grant of 80 percent, with increased incentive if the electricity is sold to moderate to low income households.

He said they do pay tax, or they can develop a Payment In Lieu of Taxes (PILOT) through the county Industrial Development Agency, negotiated by the school district, county and town.

Delaware River Solar is one of the largest solar developers in the state. There are 15 solar arrays in Sullivan County where he lives. "We are not forcing something on you that is dangerous."

C. Ferla asked why they would pick this location. He answered that he did not pick it, but he would have picked it. The biggest criteria is the location of a three-phase electric

line.

She went on to say they should pick areas where landowners want it. We're believers there is climate change. It should be put in places where people can slow that down, they can shield it and mitigate it. Here you are cutting trees, disturbing wetlands and groundwater.

R. Winter said there are rules his company must follow. If they cut trees they must preserve other lands. "We can't do whatever we want. We must have a stormwater pollution prevention plan. "It's not a free for all in NYS."

S. Fortier asked how many projects are built on a mountain . R Winter said there are projects located on even steeper grades.

He was asked about the watershed emptying into the Chesapeake Bay. He said there are studies both ways on solar, good and bad. This project will clear 20 acres of a 30-acre parcel.

R. Schneider said the study must have been done by a blind man. He again stated the town of Harpersfield should receive enough benefit from the project to make it worthwhile.

W. Keller said that is not part of the site plan. That is a town board issue. D. Darling warns everyone to stay on track. "We understand it is part of the problem, but it is different than what we have to deal with.

D. Darling said there have been rumors of a new transmission station and asked if that was going to happen. Winter said the current substation is at capacity. It costs a great deal of money to construct or expand and it was his opinion solar would not drive that decision.

In response to another question he said his company does not use herbicides. They use sheep. He is a farmer himself.

W. Keller said it mentions the fact that Harpersfield is a farming community in the Comprehensive Plan and it refers to farm land. He is recommending contour plowing underneath the solar panels. "I don't care about erosion in the SWPPP. You talk about climate change and gravel between the rows. This is ag land and decommissioning says everything must be removed from the site. Whoever does the SWPPP, is talking with the regional water engineer. I'm going to make darn sure there is no gravel.

Decommissioning will be covered and it must go back to the existing condition. We can do something about recommissioning and groundwater recharge. We're governed by a

set of laws what we can do and what we can't do. I never forget who I'm working for, but it's a balancing act . We are hearing you and trying to do what we can. You mention the track. We lost both ways.

S. Fortier asks what if they expand the project...

W. Keller said they will do the best they can for the town and the taxpayers, but have to follow the rules.

We are the best planning board in the entire county because we have the toughest stuff to do.

R. Winter provided percentage of government subsidies: 30 percent in federal tax credit and 6/7 percent from NYSERDA.

CJ Karcher mentioned selling the electricity back to low income and moderate income households when planning power into the grid. What calculation of that goes into the grid. Customers subscribe to an array, then are offered 5 percent off their energy bill. If the company has 1000 credits, they sell it for \$950. All new projects are consolidated and billed through NYSEG. If they don't meet the income guidelines it is 5 percent across the board.

The Central Catskills Snowmobile Trail travels through the proposed project. Does the trail get altered. D. Darling said there is room for the trail around the edge of the project. CJ Karcher questioned bringing the snowmobilers closer to the homes. "It could infringe on someone else's property or bring it closer to the homes."

F. Ciulla asked if any solar arrays have yet been decommissioned in the state. The first project was built in without enough time to see decommissioning, based on 30-year lifespan.

S. Fortier asked if they could guarantee the project would not expand. "Will you guarantee it will not expand. What about the fire hazard. Will you provide a training policy that says to let them burn ." She is concerned about hazardous materials melting into the ground.

R. Winter indicated the panels are struck by lightning all the time and do not catch fire. They do not have a greater hazard for fires.

Inverters do create a small hum and are usually located in the middle of the array.

Would they submit the lease agreement with landowner. R. Winter said he could provide a redacted version.

C. Ferla submitted information that NYS recently redefined historic wetlands and protection reform for smaller wetlands. There are rare plants in the county and a few distribution maps of species concerns. She referred to the state of Virginia and problems created by stormwater.

She referred to the towns Comprehensive Plan, Site Plan Review Law and State Environmental Quality Review Act, referring to various sections, 617.4 and 617.7 regarding SEQRA and substantial adverse impact on groundwater. The uncertainty of stormwater runoff, clear cutting and erosion and drainage problems. Submissions attached.

Eagles and seven other birds in addition to the Monarch butterfly are species for concern. She referred to the sources for determining existing species.

She referred to the natural resources and that buffers are not sufficient. Region 4 refers to creating materials that conflict with community plans or goals. She contends it conflicts with the town's Comprehensive Plan which is to maintain the rural character of the town. She refers to Non-Point Source Pollution and its impacts on water balance and species. Rural Siting Guideline, Architectural Design, Health (submitted in November) when two items together pose a substantial impact when one or the other doesn't.

“They should be proving there is no impact to the environment or wildlife. “

Juliet Secho indicated she is attempting to understand the process. She asked if they were going to do all of these analyses and if there were a better way to communicate other than at these meetings. She wanted to know the benefit is of going through the SEQRA.

W. Keller explained the process.

Joe Ferla asked why the town does not develop a solar law. He asked if the planning board, if it deemed a solar law was needed, could make that recommendation to the town board. He said the town attorney had indicated site plan was enough to take care of the issues.

D. Darling said that was a discussion for the town board, the same for a moratorium. They are discussions to have with the town board.

Robert Chiappisi of Delaware Engineering said the SEQRA process takes care of plant species and groundwater runoff. The interested parties, which include DEC are contacted to provide feedback regarding any potential impacts. The process looks to see how much impact and to address those items. He referred to the SEQRA Workbook and handbooks as places to learn that information. He said there is also a local government

guide regarding solar that is put out by NYSERDA. It explains the decommissioning plan and answers many frequently asked questions.

S. Fortier said DEC is not the be all or end all, relating to a fuel spill in her neighborhood.

The IPAC review of species identifies what species may be present and where there may be hyper Halculums. C. Ferla “We have no idea what’s there or if there are protected species.”

CJ Karcher asked if the project has already been accepted into the grid and what if the Blue Wave projects are completed first. The project has already been secured capacity to the grid. If the project was not done, the company would lose far more than if the project were scaled back.

A motion was made by W. Keller, with a second by A. Gallagher to adjourn the hearing until the February meeting. Motion carried 5-0.

D. Darling said the planning board needs to refer to technical advice to pinpoint suggestions and recommendations that they will try to address at the February meeting. A few more questions were answered tonight. R. Winter asked for a list of things to respond to and If W.Keller wants certain items he must request it be on the SWPPP.

Colleen Bisceglia of Blue Wave was present for the Bruce Hill Road projects with a package from the last meeting. Sean Murphy provided a noise study and some of the general questions. They did address the groundwater recharge and moved the array from one of Eklund’s fields. She is here to talk through any comments regarding a review of the project.

Robert Chiappisi said he had little time to review the information submitted by Blue Wave, but did have a lengthy preliminary list to address. The town only received it on this date. There were no copies of the review available at the meeting.

Chiappisi had a major concern right off the bat – the segmentation of the project from the standpoint of SEQRA and recommended they not do it. He said any challenge would win in court as the projects encompass 60 acres and have a a cumulative impact.

Bisceglia said it was the intent for them to exist as separate projects. He advises they do it as one project.

He went on down the list of preliminary issues, which includes highway permits, temporary storage for waste, code and first responder roadways into the arrays. There is

no exterior lighting or landscaping plan. There is more to the list which he was going to provide.

Board members discussed the segmentation issue and agreed they will follow the consultant's recommendation.

C. Ferla asked that after all the reviews and the project is approved, what happens if S. Fortier's home is flooded and who is responsible.

D. Darling said it ultimately the planning board's decision to approve or disapprove based on the recommendations of the consultant.

A motion was made by D. King, with a second by A. Gallagher to continue the hearings on the Blue Wave projects until the February meeting. Motion carried 5-0.

D. Darling asked fellow planning board members if they believe a moratorium is needed. No moratorium is needed unless it is tied to the comprehensive plan.

D. Darling reported the mini track by NY Safety Track is adjourned until they have retained new counsel.

On a motion by D.King, with a second by F. Ciulla, the meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Liz Page,
Recording secretary

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1/25/23

New York Rare Plant Status Lists December 2022

Compiled by Richard M. Ring



New York Natural Heritage Program

A Partnership between SUNY ESF and the NYS Department of Environmental Conservation

625 Broadway, 5th Floor, Albany NY 12233-4757 (518) 402-9035 www.nynhp.org

New York Rare Plant Status Lists

December 2022

Compiled by Richard M. Ring

Delaware County

- E - Northern Monkshood
- E - Northern Wild Comfrey
- E - Hairy Angelica
- T - Dragon's Mouth Orchid
- E - Long-bracted Orchid
- E - Sitka Ground Cedar
- T - Meadow Horsetail
- T - Wild Hydrangea
- E - Tall Hairy Lettuce
- E - Lily-leaved Twayblade
- E - Mountain Evening Primrose
- E - Northern Adder's Tongue
- T - Marsh Lousewort
- T - Wild Sweet William
- E - Butterwort
- E - Hooker's Orchid
- T - Riverweed
- R - Jacob's Ladder
- T - Red Pondweed
- T - Dwarf Cherry
- E - Whorled Mountain Mint
- E - Southern Swamp Buttercup
- E - American Golden Dock
- E - Sharp-tipped Blue-eyed Grass
- E - Swamp Oats E
- T - Northern Bog Aster T
- T - Culver's Root T
- E - Northern Bog Violet E



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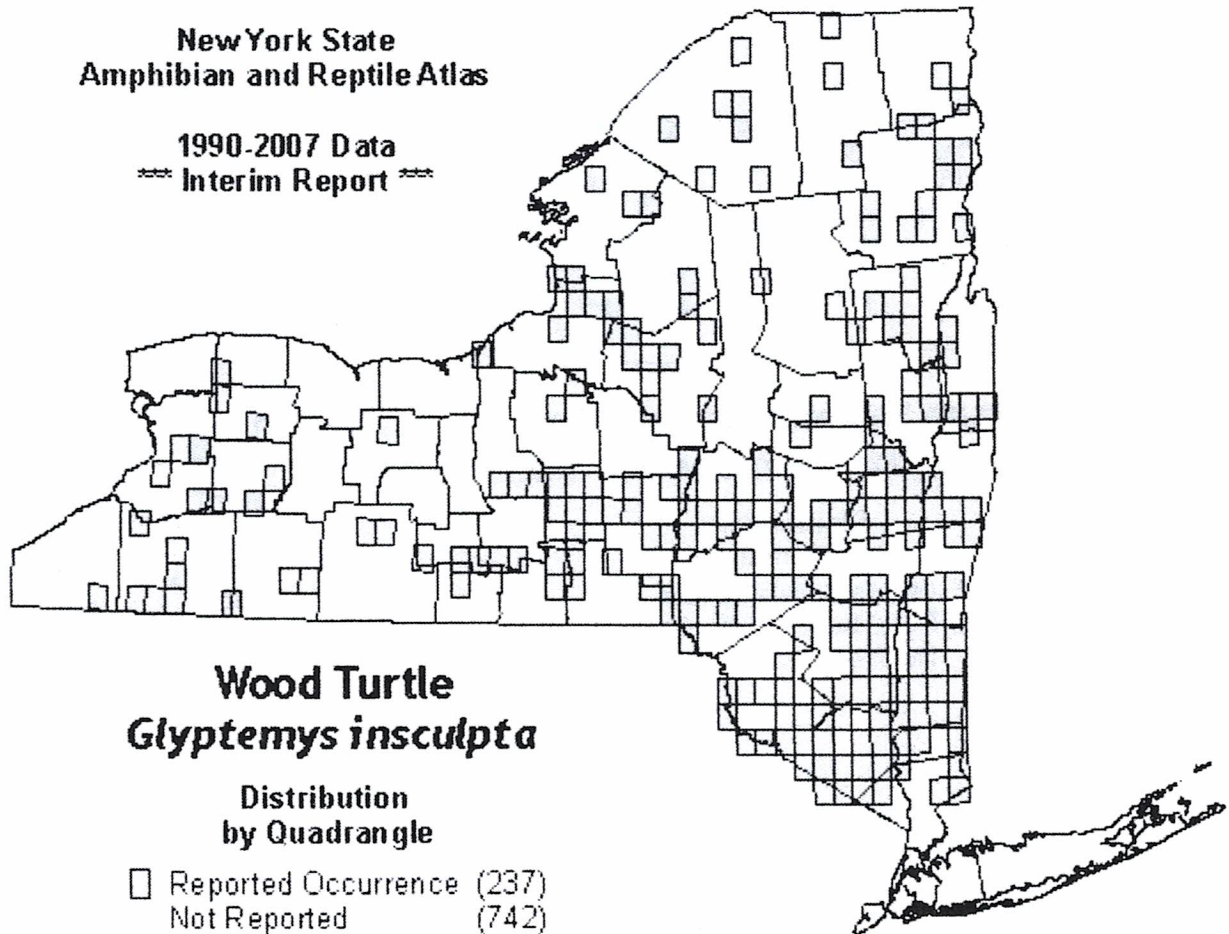
Recreation

Nature

Prevent

Home » Animals, Plants, Aquatic Life » Amphibians & Reptiles » Herp Atlas Project » Species

Wood Turtle Distribution Map

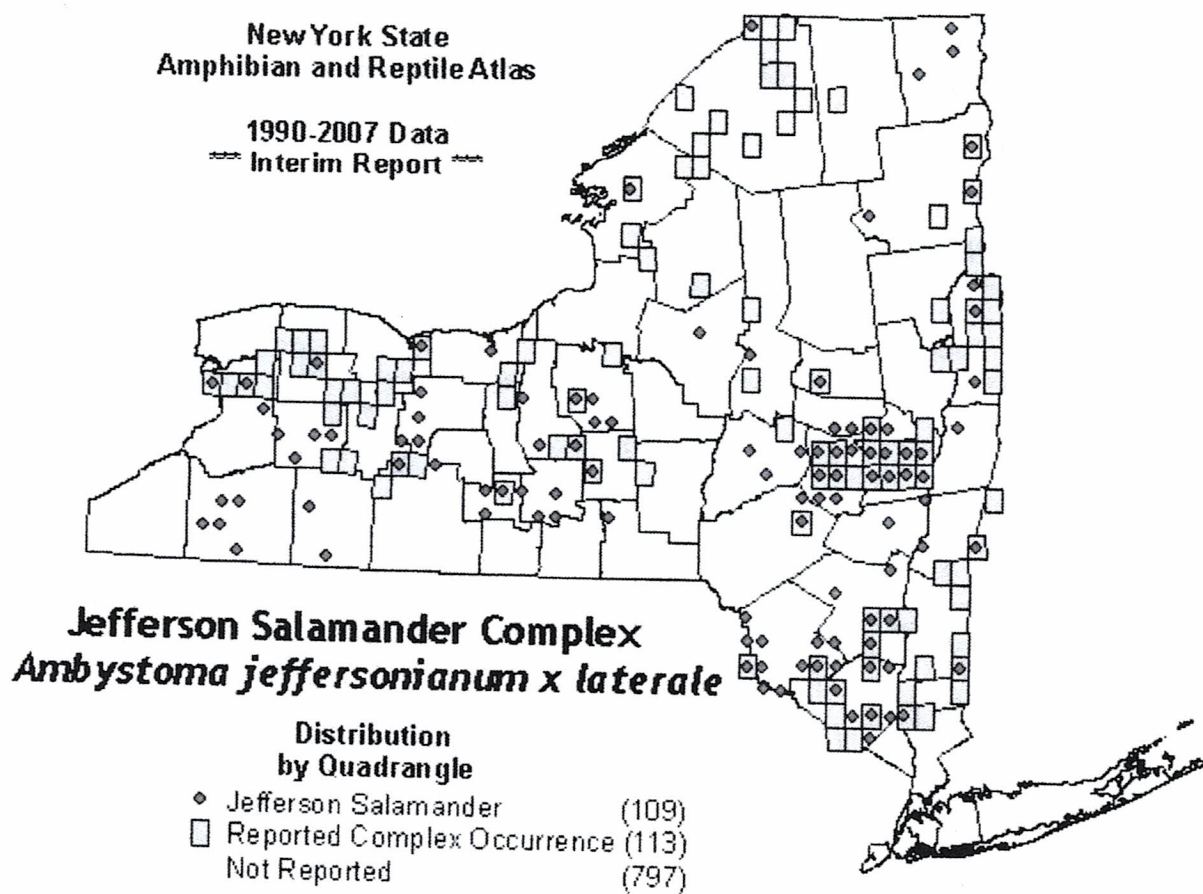


SPECIAL CONCERN

Jefferson Salamander Distribution Map

New York State
Amphibian and Reptile Atlas

1990-2007 Data
Interim Report



C Feila
1/25/23

January 23, 2023

6NYCRR Part 617. STATE ENVIRONMENTAL QUALITY REVIEW

Section 617.4 states the following:

(a) (1) "the fact that an action or project has been listed as a Type 1 action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require and EIS."

Section 617.7 includes the following criteria for determining significance:

(c) (1) (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

Our submissions regarding the uncertainty that exists in the calculation of stormwater runoff from solar facilities, the problems that have arisen as a result of this uncertainty, combined with the topography of the site, and the clearcutting of 11.49 acres of trees which will increase runoff, definitely indicates the potential for erosion and drainage problems.

(ii) the removal or destruction of large quantities of vegetation or fauna, substantial interference with the movement of any resident or migratory fish or wild life species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

1. Clearcutting 40% of the proposed site can certainly be described as removal of a large quantity of vegetation.

2. As for interference or impacts on wildlife and plant life – the fact is we don't know what species exist on the site or in the wetland areas both on and off site. The applicant seems to have relied on the EAF mapper to answer questions about the existence of species of endangered, threatened, of special concern or rare species of plant and wildlife. But the EAF workbook cautions that a "no" answer on the mapper "does not mean that none are there. It only means NY Natural Heritage has no information about the area." Further information from on-site surveys may be required to fully assess the presence of such species.

The NYSERDA guidebook, SEQR for Solar, recommends an initial screening for species by using the USFWS IPaC (Information for Planning and Consultation) tool. "If species are identified, it becomes necessary to perform a habitat assessment to first determine if the site

is suitable for the species and, if so, further investigation may be necessary to determine presence/absence.”

We have submitted information obtained from the USFWS IPaC indicating the possibility of the presence of eagles, seven other birds of conservation concern and the endangered Monarch Butterfly on or near the site. Also, submitted are lists of rare plants and species of special concern that could occur on the site.

I would add that there are court cases where negative declarations have been annulled when the Board failed to take a hard look at the effect on wetlands and wildlife and relied solely on letters from various agencies. (Kittredge v Planning Bd. Of Town of Liberty NY; Wellsville Citizens v Walmart; Shapiro v Planning Bd. Of Town of Ramapo)

3. Regarding other significant adverse impacts to natural resources, the project as proposed, will have a significant impact on the wetland areas. We have submitted a sampling of the abundant scientific literature that indicates that the buffers around the wetlands are inadequate and the removal of upland forest will severely impact the wetlands and the biodiversity that it supports.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

This project does conflict with Harpersfield's Comprehensive Plan.

Public input in the comprehensive planning process repeatedly expressed the desire to maintain the rural character of the Town, and is the basis for the goals included in the Plan. For example,

Goal 1: The Town of Harpersfield will maintain its rural atmosphere of woodlands, farms, fields and residential areas.

c. Distinct boundaries between built and un-built areas should be maintained, as this is a significant feature of "rural character".

Goal 4: Residential and commercial growth in Harpersfield is compatible with the environment. Negative impacts of new development on existing residences, scenic areas, streams, farmland and other important natural features of the environment are eliminated or mitigated.

During SEQR future developments should be reviewed against goals and standards as outlined in this Comprehensive Plan.