

# PRELIMINARY SCOPING STATEMENT

## Excelsior Energy Center

Town of Byron  
Genesee County, New York

Case No.: 19-F-0299

*Prepared for:*

Excelsior Energy, LLC  
700 Universe Boulevard  
Juno Beach, Florida 33408

Contact: Mr. Keddy Chandran  
Keddy.Chandran@nexteraenergy.com, (561) 691-7274

*Prepared by:*



TRC  
2801 Wehrle Drive, Suite 8,  
Williamsville, NY 14221

September 23, 2019

## TABLE OF CONTENTS

|            |   |          |
|------------|---|----------|
| <b>1.0</b> | <b>INTRODUCTION.....</b>  | <b>1</b> |
| <b>2.0</b> | <b>APPLICANT AND PROJECT DESCRIPTION .....</b>                                  | <b>2</b> |
| 2.1        | Company Profile .....   | 2        |
| 2.2        | Project Description.....  | 3        |
| 2.3        | Project and Study Area .....  | 5        |
| 2.4        | Summary of Pre-Application Activities.....                                      | 6        |
| 2.5        | Organization of the Preliminary Scoping Statement .....                         | 7        |
| <b>3.0</b> | <b>CONTENTS OF APPLICATION.....</b>   | <b>8</b> |
| 3.01       | General Requirements - Public Contact and Project Information (Exhibit 1) ..... | 8        |
| 3.02       | Overview and Public Involvement (Exhibit 2).....                                | 12       |
| 3.03       | Location of Facilities (Exhibit 3).....   | 17       |
| 3.04       | Existing Land Use and Project Planning (Exhibit 4) .....                        | 20       |
| 3.05       | Electric Systems Effects (Exhibit 5).....                                       | 28       |
| 3.06       | Wind Power Facilities (Exhibit 6) .....   | 35       |
| 3.07       | Natural Gas Power Facilities (Exhibit 7) .....                                  | 36       |
| 3.08       | Electric System Production Modeling (Exhibit 8) .....                           | 37       |
| 3.09       | Applicable, Reasonable and Available Alternatives (Exhibit 9) .....             | 39       |
| 3.10       | Consistency with State Energy Planning Objectives (Exhibit 10).....             | 44       |
| 3.11       | Preliminary Design Drawings (Exhibit 11).....                                   | 48       |
| 3.12       | Construction (Exhibit 12) .....   | 54       |
| 3.13       | Real Property (Exhibit 13) .....  | 60       |
| 3.14       | Cost of Facilities (Exhibit 14) .....   | 62       |
| 3.15       | Public Health and Safety (Exhibit 15) .....                                     | 64       |
| 3.16       | Pollution Control Facilities (Exhibit 16) .....                                 | 69       |
| 3.17       | Air Emissions (Exhibit 17).....   | 70       |
| 3.18       | Safety and Security (Exhibit 18) .....  | 73       |
| 3.19       | Noise and Vibration (Exhibit 19) .....  | 78       |
| 3.20       | Cultural Resources (Exhibit 20).....  | 91       |
| 3.21       | Geology, Seismology, and Soils (Exhibit 21) .....                               | 102      |
| 3.22       | Terrestrial Ecology and Wetlands (Exhibit 22) .....                             | 124      |
| 3.23       | Aquatic Ecology and Water Resources (Exhibit 23).....                           | 154      |
| 3.24       | Visual Impacts (Exhibit 24).....  | 168      |
| 3.25       | Effects on Transportation (Exhibit 25).....                                     | 178      |
| 3.26       | Effects on Communication (Exhibit 26).....                                      | 183      |
| 3.27       | Socioeconomic Effects (Exhibit 27) .....  | 187      |
| 3.28       | Environmental Justice (Exhibit 28) .....  | 193      |
| 3.29       | Site Restoration and Decommissioning (Exhibit 29) .....                         | 195      |
| 3.30       | Nuclear Facilities (Exhibit 30) .....   | 198      |
| 3.31       | Local Laws and Ordinances (Exhibit 31) .....                                    | 199      |
| 3.32       | State Laws and Regulations (Exhibit 32) .....                                   | 205      |
| 3.33       | Other Applications and Filings (Exhibit 33) .....                               | 209      |
| 3.34       | Electric Interconnection (Exhibit 34) .....                                     | 211      |
| 3.35       | Electric and Magnetic Fields (Exhibit 35).....                                  | 213      |
| 3.36       | Gas Interconnection (Exhibit 36) .....  | 216      |
| 3.37       | Back-up Fuel (Exhibit 37) .....   | 217      |
| 3.38       | Water Interconnection (Exhibit 38) .....  | 218      |
| 3.39       | Wastewater Interconnection (Exhibit 39) .....                                   | 219      |

|            |  |            |
|------------|--|------------|
| 3.40       | <i>Telecommunications Interconnection (Exhibit 40)</i> .....       | 220        |
| 3.41       | <i>Applications to Modify or Build-Adjacent (Exhibit 41)</i> ..... | 221        |
| <b>4.0</b> | <b>SUMMARY AND CONCLUSIONS</b> .....                               | <b>222</b> |
| <b>5.0</b> | <b>REFERENCES</b> .....  | <b>231</b> |

## FIGURES

|  |
|--|
| Figure 1. Regional Project Location                        |
| Figure 2. Project Area and Study Area                      |
| Figure 3. Mapped Existing Land Use in the Study Area       |
| Figure 4. Existing Vegetated Cover in the Study Area       |
| Figure 5. Agricultural Districts in the Study Area         |
| Figure 6. FEMA Flood Zones in the Study Area               |
| Figure 7. Slopes in the Study Area                         |
| Figure 8. Mapped Soils in the Project Area                 |
| Figure 9. Seismic Hazard in the Project Area               |
| Figure 10. Groundwater Aquifers in the Study Area          |
| Figure 11. Mapped Water Wells in the Study Area            |
| Figure 12. Mapped Streams and Wetlands in the Project Area |
| Figure 13. Tax Assessment Jurisdiction in the Study Area   |

## APPENDICES

|  |
|--|
| Appendix A. PIP Meeting Log  |
| Appendix B. Copy of PSS Notice                                     |
| Appendix C. PIP Plan   |
| Appendix D. Stakeholder List                                       |
| Appendix E. USFWS IPaC Official Species List                       |
| Appendix F. Grassland Breeding Bird Survey Site-Specific Work Plan |

## TABLES

|  |     |
|--|-----|
| Table 1. Reptiles and Amphibians within Project Area ..... | 127 |
| Table 2. State Reviews, Permits and Approvals.....         | 205 |
| Table 3. Content of Excelsior Energy Center PSS .....      | 224 |

## LIST OF ACRONYMS

|                 |   |
|-----------------|---|
| AC              | alternating current   |
| AADT            | Annual average daily traffic  |
| APE             | Area of Potential Effects   |
| Applicant       | Excelsior Energy Center, LLC  |
| Application     | Article 10  |
| BBS             | Breeding Bird Surveys   |
| BMPs            | best management practices   |
| CAA             | Clean Air Act   |
| CES             | Clean Energy Standard   |
| CIP             | Critical Infrastructure Protection                                  |
| CO <sub>2</sub> | carbon dioxide  |
| CRIS            | Cultural Resources Information System                               |
| CZMA            | Coastal Zone Management Act   |
| DC              | direct current  |
| DHSES           | New York State Division of Homeland Security and Emergency Services |
| DOD             | Department of Defense   |
| DPS             | New York State Department of Public Service                         |
| DSNY            | Dig Safe New York   |
| ECOS            | Environmental Conservation Online System                            |
| EMF             | electromagnetic fields  |
| EPA             | Environmental Protection Agency                                     |
| EPC             | Engineering and Procurement Contractor(s)                           |
| ERM             | NYSDEC Environmental Resource Mapper                                |
| ERP             | Emergency Response Plan   |
| ESCP            | erosion and sediment control plan                                   |
| Esri            | Environmental Systems Research Institute                            |
| FAA             | Federal Aviation Administration                                     |
| FERC            | Federal Energy Regulatory Commission                                |
| FHWA            | Federal Highway Administration                                      |
| FOIL            | Freedom of Information Law  |
| FPDC            | Fleet Performance and Diagnostic Center                             |
| FEMA            | Flood Emergency Management Agency                                   |
| GHG             | greenhouse gas  |
| GIS             | Geographic Information Systems                                      |
| GPS             | global positioning system   |
| HDD             | horizontal directional drilling                                     |
| HMANA           | Hawk Migration Association of North America                         |
| HSG             | Hydrologic soil group   |
| HUC             | Hydrologic Unit Code  |
| Hz              | Hertz   |
| IDA             | Industrial Development Agency                                       |
| IMPLAN          | Impact Analysis for Planning  |
| IPaC            | USFWS Information for Planning and Conservation                     |
| ISCP            | Invasive Species Control Plan                                       |
| ISO             | International Organization for Standardization                      |
| kV              | Kilovolt  |
| LSZ             | Landscape Similarity Zones  |
| MLRA            | Major Land Resource Area  |

|                 |   |
|-----------------|---|
| MW              | Megawatts   |
| MWh             | megawatt-hours  |
| NEER            | NextEra Energy Resources, LLC   |
| NERC            | North American Electric Corporation                                   |
| NHPA            | National Historic Preservation Act                                    |
| NIA             | noise impact assessment   |
| NIST            | National Institute of Standards and Technology                        |
| NLCD            | National Land Cover Data  |
| NO <sub>x</sub> | nitrogen oxides   |
| NOI             | Notice of Intent  |
| NPS             | National Park Service   |
| NR              | National Register   |
| NRCS            | Natural Resources Conservation Service                                |
| NRHP            | National Register of Historic Places                                  |
| NSPS            | New Source Performance Standards                                      |
| NTIA            | National Telecommunications and Information Administration            |
| NWI             | National Wetlands Inventory   |
| NYAC's          | New York Archaeological Council's                                     |
| NYNHP           | New York Natural Heritage Program                                     |
| NYPA            | New York Power Authority  |
| NYS             | New York State  |
| NYSDEM          | New York State Department of Agricultural and Markets                 |
| NYSDEC          | New York State Department of Environmental Conservation               |
| NYSOT           | New York State Department of Transportation                           |
| NYSERDA         | New York State Energy Research and Development Authority              |
| NYSM            | New York State Museum   |
| NYSORPS         | New York State Office of Real Property Services                       |
| NYISO           | New York Independent System Operator                                  |
| O&M             | Operation & Maintenance   |
| OPRHP           | New York State Office of Parks, Recreation, and Historic Preservation |
| PILOT           | Payment In Lieu of Tax Agreement                                      |
| Project         | Excelsior Energy Center   |
| PSC             | Public Service Commission   |
| PIP Plan        | Public Involvement Program Plan                                       |
| PSL             | Public Service Law  |
| PSS             | Preliminary Scoping Statement   |
| RCNM            | Roadway Construction Noise Model                                      |
| RECs            | Renewable Energy Credits  |
| REV             | Reforming Energy Vision   |
| ROCC            | Renewables Operations & Control Center                                |
| ROW             | right-of-way  |
| SCC             | Species of special concern  |
| SCADA           | supervisory control and data acquisition                              |
| SEP             | New York State Energy Plan  |
| SEQRA           | State Environmental Quality Review Act                                |
| SGCN            | Species of Greatest Conservation Need                                 |
| Siting Board    | New York State Board on Electric Generation siting and Environment    |
| SLM             | sound level meter   |
| SO <sub>2</sub> | sulfur dioxide  |
| SPCC            | Spill Prevention Control and Countermeasure plan                      |

|       |  |
|-------|--|
| SPDES | State Pollutant Discharge Elimination System                                 |
| SRIS  | System Reliability Impact Study  |
| SSESC | New York State Standards and Specifications for Erosion and Sediment Control |
| SWPPP | Stormwater Pollution Prevention Plan   |
| THPO  | Tribal Historic Preservation Officer   |
| T&E   | threatened and endangered species  |
| USACE | United States Army Corps of Engineers  |
| USDA  | U.S. Department of Agriculture   |
| USFWS | United States Fish and Wildlife Service                                      |
| USGS  | United States Geologic Survey  |
| VIA   | visual impact assessment   |
| VSA   | Visual Study Area  |
| WHO   | World Health Organization  |

## 1.0 INTRODUCTION

Excelsior Energy Center, LLC, (Excelsior Energy Center or the Applicant) a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (NEER), plans to submit an application to construct a major electric generating facility, the Excelsior Energy Center (the Excelsior Energy Center Project or the Project), under Article 10 of the Public Service Law (PSL). Pursuant to the rules of the New York State Board on Electric Generation Siting and the Environment (Siting Board), applicants proposing to submit an application to construct a major electric generating facility under Article 10 (Application) must submit a Preliminary Scoping Statement (PSS) no less than 90 days prior to filing the Application.

The Applicant has been implementing its Public Involvement Program Plan (PIP Plan) and conducting stakeholder outreach as well as consulting with local, state, and federal government agencies, and Project stakeholders. Consultations and meetings will be documented in a Meeting Log maintained by the Applicant, which will be updated and submitted to the Secretary approximately on a quarterly basis (or as necessary) and is available on the Applicant's website ([www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)). The most recent Meeting Log is included with this PSS as Appendix A. The Applicant will continue to implement the PIP Plan and conduct outreach activities throughout the scoping process, during the preparation of the Application, and throughout the remainder of the Article 10 process.

The purpose of the PSS is to present “... as much information as is reasonably available concerning the proposed project...”and propose the methodology, scope of studies, or program of studies to be conducted in support of the Application to be submitted for the Project pursuant to Article 10. The required content of the PSS is prescribed in 16 NYCRR § 1000.5(l).

Pursuant to 16 NYCRR § 1000.5(g), within 21 days after the filing of this PSS, any person, agency, or municipality may submit comments on the PSS and file a copy with the Applicant and the Secretary to the Siting Board. Further details for filing comments on this PSS are provided in the Notice accompanying this document (See Appendix B for a copy of the Notice).

## 2.0 APPLICANT AND PROJECT DESCRIPTION

### 2.1 Company Profile

Excelsior Energy Center, LLC, is a limited liability company that will develop, own, operate and maintain a solar-powered wholesale generating and energy storage facility in Genesee County, New York with the exception of the interconnection switchyard which will be transferred to the New York Power Authority (NYPA) for ownership, operation, and maintenance. The Applicant is a wholly-owned indirect subsidiary of NEER.

NEER is a nationally recognized clean energy provider with a portfolio totaling over 21,000 megawatts (MW) of generating capacity in the United States and Canada, of which over 2,000 MW is derived from the sun. NEER operates primarily as a wholesale power generator, providing power and environmental attributes to utilities, retail electricity providers, power cooperatives, municipal electric providers, and large industrial companies. Approximately 99 percent of NEER's electricity is derived from clean or renewable sources, including solar and wind. NEER, together with its affiliated entities, is the world's largest operator of renewable energy from the wind and sun.

The Excelsior Energy Center was selected as part of the New York State Energy Research and Development Authority (NYSERDA) 2018 Renewable Energy Standard Solicitation Request for Proposal (REFRFP 18-1) to purchase renewable energy credits from large-scale renewable energy projects. The Project will consist of a 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system and will be consistent with New York State's policies promoting renewable energy goals, including the 2015 New York State Energy Plan (SEP) the Clean Energy Standard (CES), and the 2019 Climate Leadership and Community Protection Act (CLCPA), which collectively seek to achieve an 85 percent reduction in greenhouse gas emissions by 2050, the generation of 70 percent of the State's electricity from renewable energy sources by 2030, and net-zero emissions from the State's electricity system by 2040.



## 2.2 Project Description

The Project will have a generating capacity of 280 MW of power and a 20 MW / 4-hour duration energy storage system and will be located on land leased from owners of private property in the Town of Byron, Genesee County, New York (Figure 1). Project facilities will include commercial-scale solar arrays, access roads, buried (and possibly overhead) electric collection lines, and electrical interconnection facilities. Excelsior Energy Center anticipates the interconnection facilities will include a 345 kilovolt (kV) switchyard, which will be transferred to NYPA to own, maintain, and operate. The proposed Point of Interconnection(s) (“POI”) will be a tap on New York Power Authority (“NYPA”)’s 345 kV Line #NR2 that currently runs between Niagara and N. Rochester substations, approximately 21 miles from N. Rochester 345 kV substation and 50 miles from Niagara substation (Figure 2). The proposed tap will be approximately several hundred feet long and within the Project Area. The proposed collection substation and interconnection facilities will be located on land within the northern portion of the Project Area, adjacent to NYPA’s 345 kV Line #NR2 and NYPA’s New Rochester to Somerset 345 kV Line(see Figure 2). The Empire Pipeline also runs parallel to the NYPA Line through the Project Area. Coordination with the owners of this Pipeline will occur as during the Project’s design phase.

The proposed height of the solar array itself will be approximately 10 to 12 feet. As solar technology is rapidly advancing, it is not possible to determine the exact module type that will be used for a project with a commercial operation date in 2022. However, the Applicant intends to utilize a module similar to the Jinko Solar Eagle 72HM G2 380-400 Watt Mono Perc Diamond Cell. The project will utilize a tracking array system similar to the Gamechange Solar Genius Tracker <sup>TM</sup>.

The proposed Project will have positive socioeconomic impacts in the Project Area, in adjacent towns, and beyond through employment opportunities, specifically by generating construction employment. Based on similar project experience elsewhere, Excelsior Energy Center estimates that up to approximately 300-350 temporary construction jobs (peak) will be generated during the approximately twelve months of construction. Local construction employment will primarily benefit those in the construction trades, including equipment operators, truck drivers, laborers, and electricians. Excelsior Energy Center encourages local hiring to the maximum extent practicable. Workers from outside the area who fill specialized job functions will add to the regional economy by staying in area hotels, eating in local restaurants, and shopping in Byron and Genesee County

stores. Additionally, the Excelsior Energy Center will require three to four permanent employment positions during the 30 year operational period.

Excelsior Energy Center will commence discussions with the Town of Byron, the Genesee County Economic Development Center, and other relevant participants concerning the structure and level of a Payment In Lieu of Tax Agreement (PILOT).

## 2.3 Project and Study Area

Figure 1 shows the Regional Project Location. The Project Area and the Study Area to be used for analysis are shown on Figure 2. For purposes of this document, Excelsior Energy Center is defining these areas as follows:

- The Project Area consists of the locations being evaluated for placement of permanent Project facilities, including the proposed collection substation and electrical interconnection facilities. As shown in Figure 2, the Project Area includes approximately 3,418 acres of land. Within the Project Area, it is anticipated that the proposed energy center would comprise an area of approximately 1,500-2,000 acres of land. Additional land area beyond what is required for the proposed energy center is included in the Project Area to provide setbacks from neighboring land uses and to minimize impacts to environmental resources to the maximum extent practicable.
- Consistent with 16 NYCRR § 1000.2(ar), the Study Area (as shown in Figure 2) encompasses all areas within at least 2 miles of the Project Area and includes approximately 32,282 acres of land (inclusive of the approximately 3,418-acre Project Area). The Study Area includes the Towns of Batavia, Bergen, Byron, Elba, LeRoy, and Stafford in Genesee County. As a number of studies will be performed in support of the Application, some of the studies may utilize resource-specific study areas greater than the 2-mile radius from the Project Area boundaries as will be discussed in this PSS.

For the purpose of this document the following definitions are provided for clarification: off-site and on-site are respectively defined as outside or within the Project Area. For archaeological resources, the APE is defined as where significant ground disturbances may occur, inclusive of access roads, workspaces, collection lines, any proposed collection substations and interconnection facilities, and other areas of significant ground-disturbing activities (such as grading). This standard terminology will be used throughout this PSS and the Application. Additionally, the Application will include a list of acronyms.

## 2.4 Summary of Pre-Application Activities

Prior to the filing of this PSS, Excelsior Energy Center prepared a PIP Plan originally submitted to the New York State Department of Public Service (DPS) in April 2019. This document was submitted in accordance with 16 NYCRR § 1000.4. The Project was assigned Case No. 19-F-0299. Comments on the PIP Plan were received from the DPS on May 21, 2019. This document was updated, finalized, and filed on June 20, 2019. Paper copies of the PIP Plan were provided to the following locations for public review:

- Town of Byron Town Hall, 7028 Byron Holley Road, Byron, NY 14422; and
- Byron-Bergen Public Library, 13 South Lake Avenue, Bergen, NY 14416.

The PIP Plan can be accessed on the DPS online case record website maintained by the Siting Board

(<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=19-F-0299&submit=Search>) and on a Project-specific website created and maintained by Excelsior Energy Center ([www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)) by selecting the “Public Involvement” tab.

## 2.5 Organization of the Preliminary Scoping Statement

This PSS has been organized in accordance with 16 NYCRR § 1001, with all sub-sections in Part 3 directly corresponding with each Exhibit that will be included in the Application (set forth in 16 NYCRR § 1001). In order to ensure compliance with 16 NYCRR § 1000.5(l), a content matrix has been created and is included in the Summary and Conclusions section (Section 4.0) of this document. This matrix cross-references the different requirements of 16 NYCRR § 1000.5(l) with the sections applicable to this PSS.

The information presented in this PSS is preliminary in nature and presents information on the design of the Project as is reasonably available in its early stages of development. As the Project is advanced, the Application will clearly depict all proposed solar photovoltaic array locations, along with the locations of other Project components. The linear distances of collection lines and access roads will be presented in the Application based on the actual footprint that will be analyzed. Furthermore, the Application will analyze potential impacts of the proposed Project, by conducting on-site and computer-based review of the Project Area and where applicable, the Project Study Area. Figures and Appendices are referenced in the text of this PSS and presented at the end of the document.

### 3.0 CONTENTS OF APPLICATION

#### 3.01 General Requirements - Public Contact and Project Information (Exhibit 1)

The proposed Excelsior Energy Center is located in Genesee County, New York, within the Town of Byron, and is being developed by Excelsior Energy Center, LLC.

Applicant: Excelsior Energy Center, LLC  
700 Universe Blvd., FEW/JB  
Juno Beach, FL 33408  
Telephone: (800) 674-8613  
Fax: (561) 304-5404  
Email: [info@excelsiorenergycenter.com](mailto:info@excelsiorenergycenter.com)

Project Website: [www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)

Project Representative: Mr. Keddy Chandran  
700 Universe Blvd, FEW/JB  
Juno Beach, FL 33408  
Telephone: (561) 691-7274  
Fax: (561) 304-5404  
Email: [Keddy.Chandran@nexteraenergy.com](mailto:Keddy.Chandran@nexteraenergy.com)

Principal Officer: Mr. John DiDonato, Vice President  
700 Universe Blvd, FEW/JB  
Juno Beach, FL 33408  
Telephone: (561) 691-7274  
Fax: (561) 304-5404  
Email: [info@excelsiorenergycenter.com](mailto:info@excelsiorenergycenter.com)

Document service should be made to the Project's Representative (Mr. Keddy Chandran). The Application will indicate if additional document service will be requested at that time for the Applicant's agent or counsel, and related contact information will be included.

Additional inquiries related to the Project can be directed to [info@excelsiorenergycenter.com](mailto:info@excelsiorenergycenter.com) or at (800) 674-8613. This toll-free number established for the Project will be provided in the Application where public contact information is requested and will also be included on the Public Notice. The Project website can be found at [www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)

Excelsior Energy Center, LLC is a limited liability company formed on August 25, 2017 in Delaware that will develop, own, operate and maintain a wholesale solar-powered and energy storage generating facility in Genesee County, New York. Excelsior Energy Center, LLC is a wholly owned, indirect subsidiary of NEER. NEER is located at 700 Universe Blvd, Juno Beach, Florida 33408. A copy of the certificate or other documents of formation will be provided with the Application.

The following shall apply to each of the exhibits to the Application:

- (a) The application for a certificate shall contain the exhibits described by Part 1001 as relevant to the Project technology and site, and such additional exhibits and information as the Applicant may consider relevant or as may be required by the Siting Board or the Presiding Examiner. Exhibits that are not relevant to the particular application have been omitted.
- (b) Each exhibit shall contain a title page showing:
  - (1) The Applicant's name.
  - (2) The title of the exhibit.
  - (3) The proper designation of the exhibit.
- (c) Formatting:
  - (1) Each exhibit consisting of 10 or more pages of text shall contain a table of contents citing by page and section number or subdivision the component elements or matters contained in the exhibit.
  - (2) Each exhibit which includes reference or supporting documents such as attachments or appendices shall contain a table of contents that indicates those

supporting documents. The location of information within the Application (including exhibits, attachments and appendices, specifically addressing the relevant requirements of 16 NYCRR § 1001) will be clearly identified either in the table of contents or in the form of a matrix in order to ensure completeness and facilitate review. The Application will provide a list of acronyms as an appendix to the Table of Contents. All reference citations within the body of any exhibit will be fully cited at the relevant list of reference documents.

- (d) In collecting, compiling and reporting data required by 16 NYCRR Part 1001, the Applicant shall establish a basis for statistical comparison with data which shall subsequently be obtained under any program of post-construction monitoring. In addition, the Applicant will provide the NYSDEC and DPS, contemporaneously with the filing of the Application, shapefiles suitable for use in GIS software via Esri's ArcGIS suite of software containing all applicable Project and survey components using NYSDEC's *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects* (June 2016) as guidance. Applicable shapefiles will also be provided to accompany any applicable wildlife and habitat survey reports when they are ready to be submitted by the Applicant.
- (e) If the same information is required for more than one exhibit, it may be supplied in a single exhibit and referenced in other exhibit(s) where it is also required.
- (f) Exhibit 1 shall also contain:
  - (1) The name, address, telephone number, facsimile number, and E-mail address of Excelsior Energy Center, LLC.
  - (2) The address of the website established by the Applicant to disseminate information to the public regarding the Application.
  - (3) The address, telephone number, facsimile number, and E-mail address of Keddy Chandran, who is the person that the public may contact for more information regarding the application.
  - (4) The business address, telephone number, facsimile number, and e-mail address of the principal officer of the Applicant, John DiDonato, Vice President.



- (5) If the Applicant desires service of documents or other correspondence upon an agent, the name, business address, telephone number, facsimile number, and E-mail address of the agent.
- (6) A brief explanation of Excelsior Energy Center, LLC, a wholly owned, indirect subsidiary of NextEra, including its date and location of formation and the name and address of its parent.
- (7) A certified copy of the certificate of formation for Excelsior Energy Center, LLC.

## 3.02 Overview and Public Involvement (Exhibit 2)

### **Description**

The proposed Project consists of a solar photovoltaic energy generation and energy storage facility located in the Town of Byron, Genesee County, New York. The proposed Project Area boundary (see Figure 2) consists of approximately 3,500 acres of land, and the general landscape is a mix of agricultural and forest land. Within the Project Area, it is anticipated that the proposed energy center would comprise an area of approximately 1,500 to 2,000 acres of land.

The proposed Project will consist of a 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system. Proposed components of the Project include commercial-scale solar arrays, access roads, buried (and possibly overhead) electric collection lines, energy storage, and electrical interconnection facilities. A description of the solar array, as well as the proposed locations of the solar array will be identified in the Application. Additional Project facilities consist of a new collection substation and 345kV switchyard, which will be transferred to NYPA to own, maintain, and operate. The proposed Point of Interconnection(s) (“POI”) will be a tap on New York Power Authority (“NYPA”)’s 345 kV Line #NR2 between Niagara and N. Rochester substations. The proposed tap will be approximately several hundred feet long and within the Project Area.

### **Application Content Summary**

The Application will comply with all applicable sections of PSL Section 164 and 16 NYCRR § 1001 (Content of an Application). This PSS offers preliminary Project design information, as is reasonably available, with supporting figures and appendices. The Application will provide more detailed, conceptual design information, analyses, and content.

### **Pre-Application Public Involvement**

The Applicant prepared a PIP Plan in accordance with the requirements of 16 NYCRR § 1000.4. The PIP Plan was submitted to the DPS on April 24, 2019. Following the receipt of DPS comments on the PIP Plan, the PIP Plan was updated, finalized, and filed by the Applicant on June 20, 2019. The PIP Plan was created to identify and involve affected stakeholders, introduce the Project to the local community and other interested parties, explain the public outreach and involvement efforts that the Applicant will pursue throughout the development of this Project, hear and concern stakeholder concerns and input, and explain how these efforts comport with and satisfy New York’s legal and regulatory requirements. Excelsior Energy Center has completed the pre-PSS

consultations set forth in the PIP Plan's Appendix B and has held multiple stakeholder meetings. Meetings are summarized in the PIP Meeting Log (Appendix A). The final PIP Plan is included herein as Appendix C.

Excelsior Energy Center mailed informational flyers to 1,986 addresses via mail and 18 addresses via email, including host and adjacent property owners within the Project Study Area announcing the first two Project open houses. The two initial Project open houses were held on September 10, 2019. Information was presented describing the proposed Project, Article 10 requirements, proposed studies, availability of intervenor funding, and the review process. Input from attendees was also received and documented. PIP activities are ongoing. Copies of all filed or public outreach documents are also available on the Project website at <http://www.excelsiorenergycenter.com>. Two additional open house meetings will be held on a date following submission of this PSS.

### **Post-Application Public Involvement**

After submission of the Application, Excelsior Energy Center will continue to engage stakeholders by conducting outreach to encourage involvement and open communication.

Ongoing PIP Plan activities will continue to be tracked and filed in the Meeting Log which is attached as Appendix A, posted on the Project website, and will be submitted to the Secretary every quarter (or as necessary).

### **PSS Distribution and Notification Efforts**

Notification of filing of the PSS, as required by 16 NYCRR § 1000.5 and 1000.6, is available on the Project website and was published in the following newspapers:

- The Daily News, a paid-subscription, daily newspaper for Genesee, Wyoming and Orleans Counties that also is utilized by the Host Municipality for public notices. <http://www.the-dailynewsonline.com>
- The Democrat & Chronicle, a paid-subscription, daily newspaper serving the greater Rochester area. <https://www.democratandchronicle.com/>
- The Batavian, a free online-only news source for Batavia and Genesee County. <https://www.thebatavian.com/>

- The Genesee Valley Pennysaver, a free weekly print and online newspaper.  
<https://www.gvpennysaver.com/>

In addition to the newspaper notices, the stakeholder list has been notified via email or mail (depending on their stated preference) of the PSS Filing. The Applicant has provided an updated stakeholder list with this filing (see Appendix D), which includes host and adjacent landowners (adjacent landowners are those landowners within 2,500 feet of the Project Area property boundaries) and other parties identified through the Applicant's outreach efforts, as well as proof that a mailing and newspaper publication has occurred. Copies of the PSS are also available at the following local repositories:

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

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 2 of the Application (not to exceed 15 pages in accordance with 16 NYCRR § 1001.2):

- (a) A brief description of the major components of the proposed Project, including energy storage infrastructure, commercial-scale solar arrays, access roads, electric collection lines, collection substation, 345kV switchyard, and the 345kV line that taps into the existing NYPA transmission line. The proposed tap will be approximately several hundred feet long and within the Project Area. The Application will provide any Project component dimensions given in meters by the equivalent value in feet.
- (1) In the description of the solar array the Applicant will provide the manufacturer's specification sheets and will indicate whether the panels will be solar tracking, as applicable. To the extent the proposed panel has been selected the information will be provided in the Application. If the precise panel has not been selected, typical information for the proposed panel will be presented.

- (b) A brief summary of the contents of the Application, except those exhibits which do not apply to the proposed Project.
- (c) A brief description of the PIP Plan conducted by the Applicant prior to submission of the Application and an identification of significant issues raised by the public and affected agencies during such program and the response of the Applicant to those issues including a summary of changes made to the proposal as a result of the PIP Plan (i.e. resulting from outreach efforts). Additionally:
  - (1) Specific components of the PIP Plan conducted to date and the topics addressed will be discussed, including: opportunities for public involvement; development and use of the stakeholder list (including host and adjacent landowners); identification of any environmental justice areas; the use of document repositories; consultation with affected agencies and stakeholders; factsheets on the Article 10 process and intervenor funding and other outreach materials; use of meeting logs; and the establishment of a Project website ([www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)), and local telephone number. Paper copies of major Project documents, except those subject to protective order, will be sent to the designated local repositories. The Project is not currently planned to have a local office.
  - (2) The description shall include public involvement activities regarding the filing of the Project Application. Notice of the Application submittal will be mailed in accordance with 16 NYCRR § 1000.5 (c). In addition, notice will be mailed to a Project mailing list consisting of the updated stakeholders list, including host and adjacent landowners, and additional addresses received through public outreach. The notice will include information on the Project generally and the Article 10 Application specifically. A copy of the mailing list and documentation indicating the dates and mailings that were made will be provided to the Secretary. The Application will include the updated stakeholder list.
  - (3) In addition to newspaper publication as required under 16 NYCRR § 1000.7(a), the Applicant will publish notice about the Application in at least one free local newspaper circulated in the Project and Study Area, if available.

- (4) Regarding the open houses, additional details will be listed, including when the informational flyers were mailed, when notification was placed in the newspaper and how many people attended. Information on the types of comments that were received and whether the Applicant took any follow-up actions will be included in the Application.
  - (5) The Application will provide a summary of questions asked at outreach events and meetings. The Applicant will indicate how it addressed or plans to address the questions. Any further public involvement activities will be included in the Project's PIP meeting log that can be found on the Project website and the DPS DMM website. Further information will be provided in the Application.
- (d) A brief description of the PIP Plan to be conducted by the Applicant after submission of the Application.
- (e) A brief, clearly and concisely written analysis in plain language that presents the relevant and material facts regarding the proposed Project which the Applicant believes the Siting Board should use as the basis for its decision. The analysis shall be analytical and not encyclopedic and shall specifically address each required finding, determination and consideration the Siting Board must make or consider in its decision pursuant to Section 168 of the PSL and explain why the Applicant believes the requested Certificate should be granted.
- (f) Paper copies of major Project documents, except those subject to trade secret protection under the Board's rules and any adopted protective order, will be sent to the designated local repositories.

### 3.03 Location of Facilities (Exhibit 3)

Figure 1 shows the general region in which the Project is located. Figure 2 shows the boundary of the area in which Project facilities are currently proposed (Project Area) and the corresponding Study Area which encompasses 2 miles from the boundaries of the Project Area. The Application will include detailed topographic mapping based on a 2016 (or most recent) version of the United States Geologic Survey (USGS) 1:24,000 edition Byron topographic quadrangle which will include contours, roads, railways, utility corridors, streams, waterbodies, and other features of interest. The scale of the figures will allow for detailed location information, indication of local roads, and clear identification of Project facility components.

The proposed locations of Project facilities will be identified on topographic base maps (USGS), as well as aerial photos (Environmental Systems Research Institute (Esri)), in order to provide a clear understanding of the Project layout in relation to existing resources and features. Municipal boundaries (county, city, town, and village) will be obtained from the New York State Geographic Information Systems (GIS) Clearinghouse and Esri and provided on appropriate mapping. Base map sources, formats, layout sizes and scales for the Application will be identified in any stipulations agreed to by the parties. In addition, the Applicant will provide GIS shapefiles of Project locational information to DPS staff as part of the Application.

A written Project description, accompanied by representative mapping, will identify and describe the locations of Project components based upon reasonably available information, including:

- Commercial-scale solar arrays;
- Inverters;
- Access roads;
- Fencing;
- Collection lines (mostly buried and possibly some overhead);
- Laydown/staging areas;
- Collection substation;
- 345kV switchyard and tap line; and
- Energy storage infrastructure.

The Project does not include any ancillary features located outside the Project Area.

The Project, including all related facilities, will be sited on privately-owned lands within the Project Area obtained through lease and/or purchase agreements with landowners.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 3 of the Application in accordance with 16 NYCRR § 1001.3:

- (a) The most recent USGS maps (1:24,000 topographic edition) reproduced at original scale showing:
  - (1) The proposed location of the major electric generating facility (i.e., Project) and locations of all Project components including commercial scale solar arrays, access roads, collection lines, on site laydown/staging areas, collection substation, and 345kV switchyard and tap line. Mapping will include the locations of roads, substations, and similar facilities, as applicable. The Applicant is exploring whether or not an Operation & Maintenance (O&M) building will be included as part of the Project. List of proposed locations to be indicated on maps will include perimeter fencing (around solar panel arrays, substation, switchyard); employee operational parking; and locations of proposed landscape berms, fences, and other features, as applicable. The Applicant will specify the location of the collection substation and POI switchyard and will provide a map detailing the location of access roads from public roadways to be utilized for construction and operation of these facilities.
  - (2) The proposed location of any interconnections, water supply lines, communications lines, stormwater drainage lines, and appurtenances thereto, to be installed in New York State connecting to and servicing the site of the Project that are not subject to the Commission's jurisdiction under PSL Article VII.
  - (3) The location of all proposed ancillary features not located in the Project Area, if applicable, such as roads, railroads, switchyards, fuel or energy storage or regulation facilities, solid waste disposal areas, waste treatment and disposal facilities, and



similar facilities, that are not subject to the Siting Board's jurisdiction under PSL Article 10. At this time, no such facilities are proposed.

- (4) There are no proposed electric transmission line or fuel gas transmission line interconnections that are subject to review under Article VII of the PSL proposed as part of the Project; therefore, this information is not required to be included as part of the Application.
  - (5) The Study Area for the Project is generally related to the nature of the technology and the setting of the proposed Project Area. Based on the scale of the Project and the Project setting, the Application will include the evaluation of a two-mile Study Area from all Project Area property boundaries unless stated otherwise in the Application for resource-specific surveys. The proposed Project is not located in areas of significant resource concerns that would justify expanding the Study Area.
- (b) Maps clearly showing the location of the proposed Project Area and a two-mile study area. Mapping will also show the interconnections, including electric collection lines, collection substation, the 345kV switchyard and tap line in relation to municipal boundaries, taxing jurisdictions, and designated neighborhoods or community districts, at a scale sufficient to determine and demonstrate relation of facilities to those geographic and political features.
- (c) Written descriptions explaining the relation of the location of the proposed Project Area, the interconnections, including electric collection lines, collection substation, the 345kV switchyard and tap line in relation to affected municipalities, taxing jurisdictions, and designated neighborhoods or community districts.

### 3.04 Existing Land Use and Project Planning (Exhibit 4)

A map of the existing land uses for the Project Area has been prepared (see Figure 3) using publicly available data from the Genesee County Planning Department GIS Data and Mapping Services and the classification codes of the New York State Office of Real Property Services (NYSORPS). The following classifications are used by the NYSORPS to identify the different land use types: Agricultural; Residential; Vacant Land; Commercial; Recreation and Entertainment; Community Services; Industrial; Public Services; and Wild, Forested, or Conservation Lands and Public Parks. For the Application, the land use will be further described and mapped based on site-specific investigations and documentation. To further define land uses on land classified by the NYSORPS as Vacant Land within the Project Area, the Applicant will inquire about current uses of vacant land through coordination with participating landowners. A map of the existing vegetated cover showing crop lands, forested lands, and other cover types is helpful in providing land use context as well (see Figure 4).

The Project Area is located in Genesee County Agricultural District 4. Agricultural land within the Project Area is primarily used for field and row crops. A review of the Natural Resources Conservation Service (NRCS) Web Soil Survey mapping indicates that of the 52 soil units mapped within the Project Area, 13 are designated as *Prime Farmland if Drained*, thirteen are designated as *Farmland of Statewide Importance*, 24 are designated as *All Areas are Prime Farmland*, and the remaining units are designated as *Not Prime Farmland*. Mapping of these NRCS farmland designations will be included in Exhibit 21 Geology, Seismology and Soils of the Application.

The Application will include mapping of the Project Area with the various farmland classifications listed above and of mapped Agricultural Districts (see Figure 5) within the Project Study Area. The Application will also include a discussion describing how the siting, construction, and operation of the Project will avoid or otherwise minimize impacts, to the maximum extent practicable, to Prime Farmland, including a description of the proposed methods for soil stripping, storage and replacement upon the completion of construction, where disturbance to such areas cannot be avoided.

In addition to land use and agricultural maps, mapping of existing transmission facilities (e.g., electric, gas or telecommunications) within the Study Area will be provided in the Application,

based upon publicly available information, and consultations with the Host Municipality, local utilities, and DPS Staff will be provided in the Application.

Maps showing special designation areas such as mapped flood prone zones (see Figure 6), critical environmental areas and recreational/sensitive areas will be prepared using up-to-date databases, such as the New York State GIS Clearinghouse and agency sources and included in the Application. The Application will also include reference information for each source.

Parcels where Project components will be located, and those properties adjoining them, will be mapped to identify current land use, tax parcel number, and record of ownership. Additionally, any publicly known proposed land use plans for any of these parcels will be mapped using data from the Genesee County Department of Planning, as made available to the Applicant.

Mapping of parcels located within the Study Area will be shown on aerial photography in the Application. Aerial photography will also be overlaid with proposed Project facilities, access and maintenance roads, and limits of clearing, in order to show the relationship with existing structures and vegetation cover types. Aerial photography dates and sources will be included in the Application.

A review of the affected municipalities was conducted to identify those with comprehensive plans. Both the Host County (Genesee County) and the Host Municipality (Town of Byron) have an existing comprehensive plan. Comprehensive plans for these entities are dated 1997 (with monitoring reports from 2019) and 2019, respectively. As further described in Section 3.31, a qualitative assessment of the Project's compatibility with existing, proposed, and allowed land uses will be presented in the Application. This assessment will include evaluation of the compatibility of the Project's above-ground structures, as well as any underground interconnections, with surrounding land uses.

The Application will also include a description of the community character in the Study Area, an analysis of impacts from the construction and operation of the Project on that community character, and proposed avoidance or mitigation measures that will minimize potential impacts on community character, to the maximum extent practicable, should any be identified.

### **Proposed Studies**

The Applicant proposes to collect, evaluate and provide the following information to support and prepare Exhibit 4 of the Application in accordance with 16 NYCRR § 1001.4:

- (a) A scaled map showing Project facilities in relation to existing land uses within the Study Area (area within a two-mile radius from the Project Area boundaries) using publicly available data from the Genesee Planning Department GIS Data and Mapping services. The “Genesee County Parcel Data” data set, derived from the Property Class attribute, will be utilized to produce the scaled map. The Study Area includes approximately 32,282 acres of land (inclusive of the approximately 3,418-acre Project Area).
- (1) Land use classifications codes of the NYSORPS will be used to inventory existing land uses within the Study Area. For the Application, the land use will be further discussed and mapped based on site-specific investigations and documentation. Land use types will be identified as:
  - 100 – Agricultural;
  - 200 – Residential;
  - 300 – Vacant Land (Vacant Land that is identified for Project facility locations and directly adjacent properties will be further broken down by usage [i.e. timber, pasturing, hunting etc.] based on input received from participating landowners);
  - 400 – Commercial;
  - 500 – Recreation and Entertainment;
  - 600 – Community Services;
  - 700 – Industrial;
  - 800 – Public Services; and
  - 900 – Wild, Forested, or Conservation Lands and Public Parks.
- (b) In addition to land use maps, communications towers and existing overhead or underground lines for electric, gas or telecommunications companies will be mapped within the Study Area.

- (c) A scaled map of all properties upon which any component of the Project or the related facilities would be located, and all properties adjoining such properties that shows the current land use, tax parcel number and owner of record of each property, and any publicly known proposed land use plans for any of these parcels. The land use will be described and mapped based on site-specific investigations and documentation. To further define land uses on land classified by the NYSORPS as Vacant Land within the Project Area, the Applicant will inquire about current land uses of current vacant land through coordination with the participating landowner.
- (d) A scaled map of existing and proposed zoning districts within the Study Area will be created by data obtained from local governments including a description of the permitted and prohibited uses within each zone.
- (e) A discussion of Project's consistency with the Genesee County and Town of Byron comprehensive plans, dated 1997 (with monitoring reports from 2019) and 2019, respectively. If the Genesee County and Town of Byron's comprehensive plans are posted on a website, the exhibit shall contain the addresses of the internet sites where the plans are posted.
- (f) A map of all publicly known proposed land uses within the Study Area, gleaned from interviews with state and local planning officials, from the public involvement process, or from other sources. A discussion of the cumulative impact of these publicly known existing and proposed land uses within the Study Area will be included.
- (g) Maps showing designated agricultural districts, flood-prone zones, and recreational/sensitive areas. Agricultural districts will be specified, as designated by New York State Department of Agricultural and Markets (NYSDAM) regulations. The Agricultural District discussion in the Application will indicate date of current Agricultural District enrollment and expiration/renewal date pending for each applicable parcel. Additional discussion of agricultural land will be included in Exhibit 22. Flood hazard areas will be specified according to data from the Flood Emergency Management Agency (FEMA) Flood Insurance Rate Maps. There are no designated inland waterways, coastal areas, local waterfront revitalization program areas, State

Environmental Quality Review Act (SEQRA) designated critical environmental areas, or groundwater management zones within the Study Area of the Project.

- (h) Scaled maps showing: (i) recreational and other land uses within the Study Area that might be affected by the sight, sound or odor of the construction or operation of the Facility, interconnections and related facilities, including any wild, scenic and recreational river corridors, open space and any known archaeological, geologic, historical or scenic area, park, designated wilderness, forest preserve lands, scenic vistas, conservation easement lands, scenic byways designated by the federal or state governments, nature preserves, designated trails, and public-access fishing areas; (ii) major communication and utility uses and infrastructure; (iii) institutional, community and municipal uses and facilities; and (iv) a statement, including a summary, describing the nature of the probable environmental impacts and of construction and operation of the Project on such uses, including an identification of how such impacts are avoided or, if unavoidable, minimized or mitigated. Given the provisions of § 304 of the National Historic Preservation Act (NHPA), 9 NYCRR § 427.8, and § 15 of the PSL, information about the location, character, or ownership of a cultural resource shall not be disclosed to the public, and shall only be disclosed to the parties to a proceeding pursuant to an appropriate protective order if a determination is made that disclosure may (1) cause a significant invasion of privacy, (2) risk harm to the affected cultural resource, or (3) impede the use of a traditional religious site by practitioners.
- (i) A qualitative assessment of the compatibility of the Project and any interconnection with existing, proposed, and allowed land uses, and local and regional land use plans within a one-mile radius of the Facility site and any interconnection route. The qualitative assessment shall include an evaluation of the short- and long-term effects of facility-generated noise, odor, traffic and visual impacts on the use and enjoyment of areas within one mile of Project facilities. The assessment will specifically address impacts to nearby land uses that may be of particular concern to the community, such as residential areas, schools, civic facilities, recreational facilities, and commercial areas. If any known off-Site staging and/or storage areas will be used for Project construction, a qualitative assessment of the compatibility of the proposed off-Site staging and/or storage areas with existing, proposed and allowed land-uses will also be provided. Final locations of

any off-Site staging areas will be confirmed in any required Compliance Filing, or filing with the Secretary, as applicable.

- (j) A qualitative assessment of the compatibility of proposed above-ground interconnections and related facilities with existing, potential, and proposed land uses within the Study Area.
- (k) A qualitative assessment of the compatibility of underground interconnections and related facilities with existing, potential, and proposed land uses within 300 feet from the centerline of such interconnections or related facilities.
- (l) The Project is not within a designated coastal area or in direct proximity of a designated inland waterway. Therefore, a demonstration of conformance with the Coastal Zone Management Act (CZMA) is not applicable and will not be included in the Application.
- (m) Aerial photographs will reflect the current situation and specify the source and date of the photography. To the extent that any material changes in land use have occurred since those photos were taken, the Applicant shall identify those changes in this Exhibit.
- (n) Overlays on aerial photographs which clearly identify the Project Area with all proposed Project facilities, access roads and limits of clearing, in order to show the relationships with existing structures and vegetation cover types.
- (o) Aerial photographs of all properties within the Study Area of such scale to provide detail, discrimination and identification of natural and cultural features. All aerial photographs shall indicate the photographer and the date photographs were taken.
- (p) A description of community character within the Study Area, an analysis of impacts of Facility construction and operation on community character, and identification of avoidance or mitigation measures that will minimize adverse impacts on community character to the maximum extent practicable. For the purposes of this paragraph, community character includes defining features and interactions of the natural, built and social environment, and how those features are used and appreciated in the community

based on the Town of Byron and Genesee County Comprehensive Plans, as well as information obtained through PIP Plan activities. PIP Plan activities will continue after submission of the Application.

- (q) Photographic representations of the Project Area and the two-mile Study Area, as applicable, for the Project will be included to depict existing characteristics of the Project and surrounding area setting.
- (r) Mapping of the Project Area with farmland classifications (e.g. All Areas of Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance, etc.). Also, a discussion of how the Project will avoid or minimize, or mitigate, to the maximum extent practicable, impacts to agricultural soils with the “Prime Farmland” classification will be included. An analysis of the Prime Farmland, Prime Farmland if Drained, and Farmland of Statewide Importance to be occupied by solar components and the effects it would have on use of that land for future farming operations will also be included, as applicable.
- (s) Identification of farmland classifications located within the Project’s proposed limits of disturbance.
- (t) The Application will include a map of all publicly known proposed land uses within the Study Area, for which required permit applications have been filed with the appropriate permitting authority, from interviews with state and local planning officials, from the public involvement process, or from other sources. The potential cumulative impact of these identified publicly known proposed land uses within the Study Area along with the Project on farmland will be discussed, as will farmland conversion trends over the past 20 years within the Study Area.
- (u) Agricultural impacts will be discussed relative to the goals of the Genesee County Agricultural and Farmland Protection Plan, duration of the Project, and agricultural viability in the Project’s Study Area.
- (v) The Application will include a map of all publicly known existing and proposed land uses within the Study Area, gleaned from interviews with state and local planning officials,



from the public involvement process, from landowners and local farmers, or from other sources. The cumulative impact of these identified publicly known existing and proposed land uses within the Study Area along with the Project on farmland will be discussed, as will farmland conversion trends over the past 20 years within the Study Area.

- (w) Agricultural impacts will be discussed relative to the goals of the Genesee County Farmland and Agricultural Protection Plan, the duration of the Project, and agricultural viability in the Project's Study Area.
- (x) The Application will include a discussion describing how the Facility layout, and construction and operation of the Project will avoid or otherwise minimize impacts, to the maximum extent practicable, to natural resources and existing land uses, including, without limitation, to Prime Farmland, including a discussion as to why it was not possible to avoid the Prime Farmland designated areas, a description of the proposed methods for soil stripping, storage and replacement upon the completion of construction, where disturbance to such areas cannot be avoided, as applicable..

### 3.05 Electric Systems Effects (Exhibit 5)

A System Reliability Impact Study (SRIS) has been prepared for the Project by the New York Independent System Operator (NYISO). The SRIS evaluates a number of power flow base cases, as provided by the NYISO, including expected flows on the system under normal, peak, and emergency conditions to evaluate the effects on stability of the interconnection. Additionally, technical analyses of thermal, voltage, short circuit, and stability are being performed to evaluate the impact of interconnection. The SRIS will be included with the Article 10 Application but will be filed separately with a request for confidentiality as it contains Critical Energy Infrastructure Information and in accordance with NYISO requirements.

The Application will describe the impact of the proposed Facility on transmission system reliability in the State in greater detail.

#### **Applicable Engineering Codes and Standards, Guidelines and Practices**

The Facility and interconnection will be designed in accordance with applicable standards, codes, and guidelines. Such standards may include (but are not limited to):

- RUS Bulletin 1724E-200;
- ANSI – American National Standards Institute;
- ASCE – American Society of Civil Engineers;
- ASTM – American Society for Testing and Materials;
- Building Code of New York;
- IEEE – Institute of Electrical and Electronic Engineers;
- NEC – National Electric Code;
- NERC – North American Electric Reliability Council;
- NFPA – National Fire Protection Association;
- NPCC – Northeast Power Coordinating Council, Inc.;
- NYSCR – New York State Reliability Council;
- OSHA – Occupational Safety and Health Administrator; and
- Underwriters Laboratories.

The Application will describe which codes and standards are applicable to the Project, including interconnection components. The Application will also provide a description of the criteria, plans, and protocols for Facility design, construction, commissioning, and operation.

### **Maintenance, Management, and Procedures**

Project commissioning will occur once the solar arrays, energy storage and Project interconnections are fully constructed and the NYISO is ready to accept transmission of power to the New York grid. The commissioning activities are comprised of testing and inspecting the electrical, mechanical, and communications systems associated with the Project.

O&M of the Facility will follow industry standard practices. The Project will always have on-call local technicians who can respond quickly if required. If an event outside the normal operating range of the Facility occurs, the equipment will immediately and automatically shut down. A report will then be generated and received by the Applicant's Renewables Operations & Control Center (ROCC)/Fleet Performance and Diagnostic Center (FPDC) which is responsible for Project critical controls, responding to alarms, and other functions for the safe and reliable operation of the Project. The responsibilities of the ROCC/FPDC are described further below. The Project's O&M procedures will include facility maintenance and management plans, procedures and criteria addressing vegetation management, and facility inspection and maintenance. The Facility's preliminary O&M procedures will be submitted with the Application.

Excelsior Energy Center O&M procedures will include monitoring of solar and energy storage components and ancillary structures, environmental monitoring, quality control and assurance, technical training and inspection of access/service road conditions. In addition to routine maintenance activities, additional tasks and/or unscheduled maintenance associated with solar arrays, electrical components, access/service roads, ancillary structures and the Project collection substation will be completed as needed.

O&M personnel will complete routine inspections of the solar arrays, energy storage, access roads, revegetated areas, collection lines, and the collection substation to document facility conditions, compliance with any required certificate conditions, and identify any potential maintenance or improvement actions that may be needed. As previously mentioned, the 345kV switchyard and tapline will be transferred to NYPA to own, maintain, and operate. During the

Applicant's inspections, environmental conditions throughout the Project Area will also be observed and recorded for evaluation of the effectiveness of restoration activities until site restoration has been completed. The Applicant will also perform periodic environmental audits to ensure compliance with all regulatory and permit conditions, generally every three years. Any findings are immediately resolved by on-site staff and any positive operating procedures are also recorded and disseminated to other operating solar facilities.

In addition to inspections, an O&M schedule will be developed for inspections of all solar arrays. As part of these routine activities, the solar array components will be inspected, and the results recorded. All other existing solar structures and ancillary structures will also be inspected along with revegetated areas.

Specific schedules and frequency of routine O&M activities, facility inspections and anticipated preventative maintenance and/or additional periodic activities required for the safe, reliable and efficient operation of the Project are being developed. Plans, specifications, maintenance recommendations, performance curves and any other manuals or documentation available for the selected solar arrays will be obtained from the manufacturer and maintained by O&M personnel for reference and troubleshooting.

In addition to on-site O&M, as described above, Excelsior Energy Center will utilize a continuous 24 hour, 7 day ROCC/FPDC that will be responsible for:

- Monitoring the solar and energy storage facilities;
- Deploying technicians based on projected environmental conditions to optimize the Project; and
- Coordination with a local system operator, as required.

The ROCC/FPDC also provides performance and reliability optimization through remote solar array operation and fault reset capability, the use of advanced real-time equipment performance statistical modeling for advanced diagnostics, benchmarking among similar components and replication of best practices across the fleet. The ROCC/FPDC is supported by technical subject matter experts in the equipment and technology.

It is anticipated that all collection systems will be buried underground. In the event that overhead collection lines are required, vegetation control will be conducted in accordance with best management practices (BMPs), consistent with those adopted in past cases by the Siting Board and/or Public Service Commission (PSC), to provide safe operation and prevent damage to the line. The Application will provide the vegetation clearance requirements for the collection lines and the Project's Vegetation Management Plan will be submitted with the Application. This plan will describe the vegetation management practices for the array locations, collection lines and the collection substation, including inspection and treatment schedules, and environmental controls to avoid off-site effects.

### **Proposed Studies**

The Applicant proposes to collect, evaluate and provide the following information to support and prepare Exhibit 5 of the Application in accordance with 16 NYCRR § 1001.5:

- (a) An SRIS, performed in accordance with the open access transmission tariff of the NYISO approved by the Federal Energy Regulatory Commission (FERC), that shows expected flows on the system under normal, peak and emergency conditions and effects on stability of the interconnected system, including the necessary technical analyses (Thermal, Voltage, Short Circuit and Stability) to evaluate the impact of the interconnection. The study shall include proposed collection substation and interconnection facilities, as well as any other system upgrades required.
- (b) An evaluation of the potential significant impacts of the Project and its interconnection to transmission system reliability at a level of detail that reflects the magnitude of the impacts.
- (c) A discussion of the benefits and detriments of the Project on ancillary services and the electric transmission system, including impacts associated with reinforcements and new construction necessary as a result of the Facility.
- (d) An analysis of any reasonable alternatives that would mitigate adverse reliability impacts and maintain voltage, stability, thermal limitations, and short circuit capability at adequate levels.

- (e) An estimate of the increase or decrease in the total transfer capacity across each affected interface, and if a forecasted reduction in transfer capability across affected interfaces violates reliability requirements, an evaluation of reasonable corrective measures that could be employed to mitigate or eliminate said reduction.
- (f) A description of criteria, plans, and protocols for generation and ancillary facilities design, construction, commissioning, and operation, including as appropriate to generation technology:
  - (1) Engineering codes, standards, guidelines and practices that apply;
  - (2) Generation facility type certification;
  - (3) Procedures and controls for facility inspection, testing and commissioning;
  - (4) Maintenance and management plans, procedures and criteria, including information on maintaining/mowing grasses under and between the panels and invasive species control measures.
- (g) The Project will not have a thermal component, and therefore, heat balance diagrams are not applicable and will not be included in the Application.
- (h) As part of the Project, the 345kV switchyard and tap line will be transferred to NYPA to own, maintain and operate. Therefore, the Application will include:
  - (1) A statement concerning 345kV switchyard ownership. At this time, the Applicant anticipates the 345kV switchyard will be transferred to NYPA to own, maintain, and operate. NYPA, the transmission owner, will control the operational and maintenance responsibilities of the 345kV switchyard;
  - (2) A statement that the substation-interconnection design will meet the transmission owner's requirements; and
  - (3) A statement that the operational and maintenance responsibilities for the 345kV switchyard will be performed by NYPA.

- (i) Facility maintenance and management plans, procedures and criteria, specifically addressing the following topics:
  - (1) Solar photovoltaic panel and energy storage maintenance, safety inspections, and racking and mounting post integrity;
  - (2) The proposed collection substation, line inspections, maintenance, and repairs, including:
    - (i) vegetation clearance requirements;
    - (ii) vegetation management plans and procedures;
    - (iii) inspection and maintenance schedules;
    - (iv) notification and public relations for work in public right-of-way (ROW); and
    - (v) minimization of interference with electric and communications distribution systems.
- (j) Vegetation management practices for the Project facilities, including collection lines and the collection substation, will be included in the Application, including management practices for danger trees (i.e., trees that, due to location and condition, are a particular threat to fall on and damage electrical equipment) around the collection substation, specifications for clearances, inspection and treatment schedules, and environmental controls to avoid off-site effects.
- (k) A list of the criteria and procedures by which proposals for sharing above-ground facilities with other utilities will be reviewed, if applicable.
- (l) A status report on equipment availability and expected delivery dates for major components including solar arrays, collection lines, collection substation, transformers, energy storage infrastructure, and related major equipment.

- (m) Solar energy generation facilities do not have blackstart capabilities; therefore, a description of the Project's black start capabilities is not applicable and will not be included in the Application.
- (n) An identification and demonstration of the degree of compliance with all relevant applicable reliability criteria of the Northeast Power Coordinating Council Inc., New York State Reliability Council, and the local interconnecting transmission utility. These appropriate criteria will be identified in the SRIS or through consultation with DPS, NYISO, and the local transmission owner.



### 3.06 Wind Power Facilities (Exhibit 6)

This requirement is not applicable to the Excelsior Energy Center, as there are no wind power facilities included in the proposed Project. Therefore, this information will not be included in the Application.

### 3.07 Natural Gas Power Facilities (Exhibit 7)

This requirement is not applicable to the Excelsior Energy Center, as there are no natural gas power facilities included in the proposed Project. Therefore, this information will not be included in the Application.

### 3.08 Electric System Production Modeling (Exhibit 8)

The analyses presented in this Exhibit of the Application will be developed using computer-based modeling tools (GEMAPS, PROMOD or similar). The Applicant will consult with DPS Staff and the New York State Department of Environmental Conservation (NYSDEC) to develop acceptable input data for the simulation analyses. This data includes modeling for the proposed Excelsior Energy Center's output that will be utilized in calculating the projected emissions predicted to be displaced by the Project from other operating power generation facilities.

The Application will expand upon the fact that solar arrays generate electricity without combusting fuel or releasing pollutants into the atmosphere and estimate the levels of sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and carbon dioxide (CO<sub>2</sub>) emissions in the region with and without the proposed Facility.

In addition to calculations of approximated regional air emission levels with and without the proposed Facility, the Application will estimate the annual prices representative of NYISO Zones within the Control Area of New York State with and without the proposed Facility.

Additionally, the Application will provide the estimated capacity factor, the estimated monthly, on peak, shoulder, and off-peak MW output capability factors, and the estimated average annual and monthly production output in megawatt-hours (MWh) for the proposed Facility. An estimated production curve and estimated production duration curve over an average year will be provided and the effects of the Facility will be estimated for the energy dispatch of existing resources and co-generation facilities.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 8 of the Application in accordance with 16 NYCRR § 1001.8:

- (a) The following analyses will be developed using GEMAPS, PROMOD or a similar computer-based modeling tool:
  - (1) Estimated statewide and regional levels of SO<sub>2</sub>, NO<sub>x</sub> and CO<sub>2</sub> emissions, both with and without the proposed Project.

- (2) Estimated minimum, maximum, and average annual spot prices representative of all NYISO Zones within the New York Control Area, both with and without the proposed Project.
  - (3) An estimated capacity factor for the Project.
  - (4) Estimated annual and monthly, on-peak, shoulder and off-peak MW output capability factors for the Project.
  - (5) Estimated average annual and monthly production output for the Project in MWhs.
  - (6) An estimated production curve for the Project over an average year.
  - (7) An estimated production duration curve for the Project over an average year.
  - (8) Estimated effects of the proposed Project on the energy dispatch of existing must-run resources, defined for this purpose as existing wind, hydroelectric, and nuclear facilities, as well as co-generation facilities to the extent they are obligated to output their available energy because of their steam hosts.
- (b) The Application will include digital copies of the inputs used in the simulations required in subdivision (a) of this Exhibit. The Applicant will seek the requisite protections for confidential information.

### 3.09 Applicable, Reasonable and Available Alternatives (Exhibit 9)

Excelsior Energy Center has designed the Project to maximize solar output and to efficiently interconnect to the existing power transmission system in Genesee County, New York. The Project Area's key features, including existing open space, availability of land for lease and/or purchase, and proximity to existing electric transmission infrastructure with capacity available to deliver energy generated from the Project, positions it to best assist New York State in addressing the SEP, CES, CLCPA, and other policies directed at meeting climate change goals and advancing the integration of renewable energy. Excelsior Energy Center, in accordance with 16 NYCRR § 1001.9, will include an identification, if any, of applicable, reasonable, and available alternative location sites for the proposed Project. The alternatives analysis will be limited to property under the Applicant's control (i.e., option, lease or ownership) in accordance with 16 NYCRR § 1001.9(a).

The Project has been awarded a contract with the New York State Energy Research and Development Authority (NYSERDA) to sell Renewable Energy Credits (RECs) generated by a 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system at the proposed site. Therefore, the objective of the Project is to construct a solar energy generating facility that can produce 280 MW of renewable energy at the proposed site using the proposed energy storage system and in furtherance of complying with the NYSERDA executed REC contract.

The location selected for the Project Area is a suitable area in New York for commercial scale solar energy production. Preliminary selection of energy center locations is driven by many essential operational factors, both technical and economical. Excelsior Energy Center selected the proposed Project Area based on availability of the solar resource, available land from willing landowners, the relative ease of accessing the Project Area (thus limiting unnecessary impacts), the relative ease of connecting to the existing electric transmission grid, and sufficient available capacity on the grid. Additional factors are compatible land use, topography, and avoidance of areas considered of high statewide significance or environmental sensitivity.

In addition, Project layouts are currently being evaluated by the Applicant and will continue to be refined throughout the Article 10 process with input from Project stakeholders and based upon the results of key resource studies and environmental impacts assessments. A proposed Project

layout will be presented in the Application along with a discussion of any reasonable alternative layouts considered.

The Application will include discussions of the following other reasonable, and available alternatives, as applicable:

- General arrangement and design;
- Other solar technology;
- Scale or magnitude; and
- No Build Alternative.

Alternative generating technologies such as wind and natural gas, or other sources such as transmission or demand reducing alternatives, are not reasonable due to the award of the REC contract by NYSERDA to the Applicant for the construction and operation of a 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system at the proposed site.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 9 of the Application in accordance with 16 NYCRR § 1001.9:

- (a) Given that the Applicant proposes to operate a private facility, the identification and description of applicable, reasonable and available alternative location sites for the proposed Project, if any, will be limited to sites under option to the Applicant for the solar energy Project, as authorized by 16 NYCRR § 1001.9(a).
- (b) For each applicable, reasonable, and available alternative location identified, if any, the Applicant will provide an evaluation of the comparative advantages and disadvantages of the proposed and alternative locations at a level of detail sufficient to permit a comparative assessment of the alternatives discussed considering:
  - 1) The environmental setting;
  - 2) The recreational, cultural and other concurrent uses that the site may serve;

- 3) Engineering feasibility and interconnections;
  - 4) Reliability and electric system effects;
  - 5) Environmental impacts, including an assessment of climate change impacts (whether proposed energy use contributes to global temperature increase), potential wildlife habitat, wetland, stream, and agricultural resource impacts;
  - 6) Economic considerations;
  - 7) Environmental justice considerations;
  - 8) Security, public safety and emergency planning considerations;
  - 9) Public health considerations;
  - 10) The site's vulnerability to potential seismic disturbances and current and anticipated climate change impacts, such as sea-level rise, precipitation changes, and extreme weather events;
  - 11) The objectives and capabilities of the Applicant; and
  - 12) Agricultural use of land.
- (c) A description and evaluation of reasonable alternatives to the proposed Facility at the primary proposed location including applicable, reasonable, and available alternatives regarding:
- 1) General arrangement and design including:
    - a. consideration of arrangements/design options that would enable some continued agricultural use of the Project Area;
    - b. consideration of alternative sites, designs, or arrangements that would avoid or minimize impacts, to the maximum extent practicable, to wildlife and wildlife habitat, including but not limited to habitat fragmentation, disturbance and loss, and the displacement of wildlife from preferred habitat;

- c. arrangements that would avoid or minimize impacts to waterbodies, wetlands, and streams, to the maximum extent practicable;
    - d. arrangement of inverters away from site property lines,
    - e. consideration of alternative perimeter fencing designs that would minimize, to the maximum extent practicable, contrasts with adjacent land uses and visual character;
  - 2) Technology;
  - 3) Scale or magnitude;
  - 4) As the Project does not involve wind power facilities, alternative turbine layouts are not applicable to the Project; and
  - 5) Timing of the proposed in-service date for the Project in relation to other publicly known planned additions, withdrawals, or other capacity, transmission or demand reduction changes to the electric system that would reasonable affect the Project.
- (d) A statement of the reasons why the proposed Project location is best suited, among other applicable, reasonable, and available alternative locations, if any, and measures to be submitted as part of the Application, to promote public health and welfare, including recreational, cultural and other concurrent uses which the site and affected areas may serve.
- (e) A statement of the advantages and disadvantages of the applicable, reasonable, and available alternatives and the reasons why the primary proposed design technology, scale or magnitude, and timing are best suited, among the applicable, reasonable, and available alternatives, to promote public health and welfare, including recreational, cultural and other concurrent uses that the site may serve.
- (f) A description and evaluation of the no action/no build alternative at the proposed Project location, including the reason why the proposed Project is better suited to promote public



health and welfare, including recreational, cultural and other concurrent uses that the site may serve.

- (g) An identification and description of reasonable alternate energy supplies will be limited to those that are feasible based on the objectives and capabilities of the Applicant (i.e., solar powered electric generation with energy storage). Accordingly, other fuel sources will not be addressed in the Application.
- (h) Due to the private nature of the Facility, and the objectives and capabilities of the Applicant, (i.e., solar powered electric generation), transmission and demand-reducing alternatives will not be evaluated in the Application.
- (i) A statement of the reasons why the proposed Project is best suited, among the applicable, reasonable and available alternatives to promote public health and welfare, including the recreational, cultural, and other concurrent uses which the site and affected areas may serve.
- (j) A discussion of potential impacts to vegetation associated with any alternative arrangements considered, and information regarding why alternative arrangements were not selected. Vegetation discussed will include, but will not necessarily be limited to, trees (saplings to mature), food and livestock feed producing crops, graze lands, and soil erosion prevention cover, as applicable.

### 3.10 Consistency with State Energy Planning Objectives (Exhibit 10)

New York Energy Law § 6-104 requires the State Energy Planning Board to adopt a State Energy Plan. The latest iteration of the New York State Energy Plan was announced on June 25, 2015. The 2015 SEP contains a series of policy objectives and coordinates with New York's Reforming Energy Vision (REV) initiative and its objectives to significantly reduce greenhouse gas (GHG) emissions while stabilizing energy costs. As stated by the PSC in its 2015 REV Order, "[a] significant increase in the penetration of renewable resources is essential to meeting our objectives, state goals and proposed federal requirements."

REV, as a core initiative of the SEP, is guided by a set of five Guiding Principles, each of which is supported by the Excelsior Energy Center:

1. **Market Transformation:** With each new large renewable energy project, the local and regional supply chain is strengthened and expanded. The Project will help stimulate the local economy through direct and indirect spending and the demand for trained solar technicians.
2. **Community Engagement:** Excelsior Energy Center has been, and will continue to be, fully engaged with local and state stakeholders (as described in the PIP Plan).
3. **Private Sector Investment:** The Applicant is making a considerable capital investment to develop the Project.
4. **Innovation and Technology:** The Project will utilize state-of-the-art solar photovoltaic technology that has been developed to increase efficiency.
5. **Customer Value and Choice:** By increasing the amount of solar generated power available, the Project will allow customers greater choices in the types of electricity and the pricing they choose to utilize (SEP, 2015).

The SEP builds on the principles above with additional initiatives, goals, and targets. By adding 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system of clean, renewable solar power into the New York State energy market, the Project is consistent with the SEP and the CES adopted by the PSC pursuant to the SEP and is therefore instrumental in meeting the New York 2030 Targets of:

- 40% reduction in greenhouse gas emissions from 1990 levels; and

- 50% of electricity generation from renewable energy sources.

As noted above, the CES was adopted pursuant to and is consistent with the goals and objectives of the current SEP. As part of the implementation of the CES, NYSERDA conducts competitive solicitations for renewable projects. This Project was awarded a contract by NYSERDA for the purchase of its (RECs) in a recent solicitation. Accordingly, the construction and operation of the Project is consistent with the Commission's CES and the SEP. The Project will also be consistent with the recently adopted CLCPA, which requires 70 percent, and then 100 percent, of the State's electric generation to come from carbon-free resources by 2030 and 2040, respectively, and establishes a State mandate for electric providers to procure at least 6 GW of solar generation by 2025.

In 2018, Governor Andrew M. Cuomo announced a nation-leading goal of 1,500 Megawatts (MW) of energy storage by 2025. NYSERDA and the New York State Department of Public Service (DPS), together with stakeholders, developed the New York State Energy Storage Roadmap. The Roadmap identified the most promising near-term policies, regulations, and initiatives needed to realize the Governor's ambitious 2025 target on a path to a 2030 storage target.

In December 2018, the New York Public Service Commission (PSC) issued a landmark energy storage order, based upon the Roadmap recommendations. The order established a 3,000 MW by 2030 energy storage goal and deployment mechanisms to achieve both the 2025 and 2030 energy storage targets. Recently, the CLCPA requires the NYPSC to develop programs that require load serving entities to procure 3 GW of storage by 2030.

The Project's energy storage component, accordingly, squarely promotes the State's goals and targets.

The Project will also increase fuel diversity within New York State by increasing the amount of electricity produced by solar generation facilities. The New York electric utility system relies on supply from numerous fuel sources, including natural gas, hydroelectric, nuclear, wind, solar, oil, and some coal, as well as interconnections with neighboring states and demand-response resources. The Project is consistent with the SEP and other associated State policies and laws, which are designed to encourage the development of renewable energy projects and contribute

to the transition of New York's energy markets. Immediate benefits from the Project would include economic development, jobs for the community, greater stability in consumer energy bills and, cleaner air, all consistent with the SEP, CES, and CLCPA.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 10 of the Application in accordance with 16 NYCRR § 1001.10:

- (a) A statement demonstrating the degree of consistency of the construction and operation of the Project with the energy policies and long-range energy planning objectives and strategies contained in the most recent state energy plan, and any publicly available draft new state energy plan including consideration of the information required by subdivisions (b) through (i) of 16 NYCRR § 1001.10.
- (b) A description of the impact the proposed Project would have on reliability in the State based upon the results of the SRIS; provided, however, this description may be submitted when the SRIS (being prepared as part of the Exhibit 5) is submitted.
- (c) A description of the impact the proposed Project would have on fuel diversity in the State.
- (d) A description of the impact the proposed Project would have on regional requirements for capacity.
- (e) A description of the impact the proposed Project would have on electric transmission constraints.
- (f) The proposed Project will generate electricity without the use of fuel. Therefore, there will be no adverse fuel delivery impacts and this topic will not be addressed in the Application.

- (g) A description of the impact the proposed Project would have in relation to any other energy policy or long-range energy planning objective or strategy contained in the most recent state energy plan.
- (h) An analysis of the comparative advantages and disadvantages of applicable, reasonable and available alternative locations or properties identified, if any, of which analysis will be limited to sites under option to the Applicant for the solar energy Project, as authorized by 16 NYCRR § 1001.9(a).
- (i) A statement of the reasons why the proposed Project location and source is best suited, among the applicable, reasonable, and available alternatives identified, if any, to promote public health and welfare, including minimizing, to the maximum extent practicable, the public health and environmental impacts related to climate change.

### 3.11 Preliminary Design Drawings (Exhibit 11)

Drawings developed in support of the Application will be prepared utilizing computer software, such as AutoCAD or MicroStation, under the direction of a professional engineer, landscape architect, or architect who is licensed and registered in the State of New York whose name will be clearly printed on the drawings. These drawings will be labeled “preliminary” and/or “not for construction purposes.” The Project will utilize common engineering scales for plotting full size drawings, as required, and the corresponding common engineering scales for half size sets. Excelsior Energy Center will provide DPS with the appropriately sized copies, in accordance with the Article 10 regulations, as well as AutoCAD or Microstation files of the engineering drawings.

As part of the Application, the Applicant will prepare a site plan, construction operations plan, grading and erosion control plans, a landscaping plan, and a lighting plan as specified in 16 NYCRR § 1001.11. The Application will include typical design details of all underground facilities and all overhead facilities, as applicable. The Project will also obtain coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002; or SPDES General Permit in effect at the time of construction) and will comply with all requirements therein.

A lighting plan for Project facilities will detail any necessary safety lighting, as well as the type, location and height of proposed exterior lighting fixtures, and an indication of the measures to be taken to prevent unnecessary light trespass beyond the Project Area boundaries. The Application will also include manufacturer cut sheets of proposed light fixtures. The numbers and intensity of lighting will be kept to the minimum level necessary for worker safety and measures such as down-shielding of fixtures to focus the lighting on work areas will be utilized to minimize any unnecessary light impacts beyond the immediate work area and Project Area. Manually activated lighting will also be utilized while maintenance activities are occurring.

The Application will also include a detailed list of engineering codes, standards, guidelines, and practices that Excelsior Energy Center intends to conform to during the planning, designing, construction, and operation of the Project, as applicable. The following is provided as a representative list of applicable codes and standards, which will be updated as needed in support of the Application:

- American National Standards Institute (ANSI)
- Institute of Electrical and Electronics Engineers (IEEE)
- Insulated Cable Engineers Association (ICEA)
- American Society of Mechanical Engineers (ASME)
- National Electric Code (NEC)
- National Electrical Safety Code (NESC)
- National Electric Manufacturers Association (NEMA)
- National Fire Protection Association (NFPA)
- Uniform Building Code (UBC)
- United Laboratories (UL)
- American Iron and Steel Institute
- American Institute of Steel Construction
- AASHTO Standard for Aggregates
- ASCE 7-10 Minimum Design Loads for Buildings and Other Structures
- Federal OSHA 1910.269
- American Concrete Institute (ACI)
- Building Code of New York State

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 11 of the Application in accordance with 16 NYCRR § 1001.11:

- (a) A site plan showing all structures, driveways, parking areas, emergency access lanes, access ways and other improvements at the Project Area, depicting the proposed site in relation to adjoining properties, and depicting the layout of on-site facilities and ancillary features, as applicable. This plan will also include the number of circuits per proposed collection system route, the tap on New York Power Authority (“NYPA”)’s 345 kV Line #NR2 between Niagara and N. Rochester substations, and any known existing transmission utilities and associated rights-of-way within the Project Area as well as laydown, staging, and equipment storage areas with associated access, setbacks, and parking. The proposed tap will be approximately several hundred feet long and within the Project Area. Additional drawings shall be included depicting the layout of all offsite facilities and ancillary features, if applicable. There are currently no buildings, offsite

facilities, or sidewalks proposed. Site plans will also provide indication of property lines. Four full size copies of the preliminary design drawing set (utilizing a common engineering scale) will be provided to DPS at the time of Application submittal, as applicable. Additionally, the Applicant will provide a Flash Drive Memory Stick containing AutoCAD drawing files, as applicable. The following specific features will be included on the Project Site plans and will be submitted with the Application:

- 1) Proposed solar panels and associated mounting features (any concrete pads, foundations, etc.), inverters, any proposed meteorological stations, and energy storage;
- 2) Access road travel lanes;
- 3) Proposed grading (temporary grading for construction purposes and permanent contours for final grading);
- 4) Electric cable collection lines and number of circuits per proposed electric cable route; overhead and underground cable routes will be differentiated with specific line-types;
- 5) Approximate limits of disturbance for all Facility components (panels, access roads, buildings, electric lines, substation, etc.);
- 6) Clearing limits for all Facility components (panels, access roads, buildings, electric lines, shading vegetation, etc.);
- 7) Indication of off-site permanent ROW and road crossings for electric cable installations;
- 8) Outline of collection and interconnection switchyard/substations, tap line including access driveway, setbacks, and fence line;
- 9) Proposed locations of electric cable installations for crossing of streams, waterbodies, roads, etc. and, where proposed, any proposed locations of such crossings that will utilize trenchless methods of installation, including the approximate laydown area (outline of approximate workspace needed) and approximate trenchless installation distances;



- 10) Laydown, staging, and equipment storage areas including designated parking areas;
  - 11) O&M facilities (if applicable) including access, parking areas, site maintenance shops or equipment storage areas, and the location of any proposed water supply and septic system(s);
  - 12) Fencing and gates, including clearing associated with fencing;
  - 13) Property lines and zoning setbacks;
  - 14) Existing utility equipment locations and easement limits of those existing locations, including electric transmission and distribution lines, cable and telecommunication lines, and other features as applicable;
  - 15) Site security features, including perimeter fencing.
- (b) A construction operations plan indicating all on-site materials lay-down areas, construction preparation areas, major excavation and soil storage areas, as applicable, and construction equipment and worker parking areas.
- (c) Grading and erosion control plan indicating soil types, depth to bedrock, general areas of cut and fill, retaining walls, initial and proposed contours, and permanent stormwater retention areas, as applicable (will address both construction-phase and permanent installations).
- (d) A landscaping plan indicating areas of trees to be retained, removed, or restored; berms, walls, fences and other landscaping improvements, and areas for snow removal storage.
- (e) A lighting plan detailing the type, number and location of exterior lighting fixtures and indicating measures to be taken to prevent unnecessary light trespass beyond the Project property line.

- (f) Architectural drawings, as applicable, including structure arrangements and exterior elevations for all structures (including collection substation and 345 kV switchyard tap line and interconnection equipment, and site security features, such as CCTV or other monitoring equipment support structures, as well as any O&M or other operational support buildings and structures, including retaining walls, and fences), indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment and the type(s) of site perimeter fencing to be installed extensively around the Project.
- (g) Typical design detail drawings of all underground facilities indicating proposed depth and level of cover, and all overhead facilities indicating height above grade, including descriptions and specifications of all major components.
- (1) Plan and sections for all proposed layout schemes concerning underground collection line installations, as applicable, including:
  - i. Single and multiple-circuit layouts;
  - ii. Co-located installations with dimensions of proposed depth and level of cover;
  - iii. Separation requirements between circuits;
  - iv. Clearing width limits for construction; and
  - v. Operation of the facility, limits of disturbance, and required permanent ROW.
- (2) If overhead collection lines are deemed necessary, the following applicable information will be included on site plan drawings submitted with the Application:
  - i. Elevation plans for overhead facilities (collection and transmission lines) including height above grade, structure layouts, clearing width limits for construction and operation of the facility, and permanent ROW widths;
  - ii. Average span lengths for each proposed layout; and
  - iii. Structure separation requirements (for installations containing more than one pole, etc.) for all single and multiple-circuit layouts.

- (3) Foundations (piers, etc., including dimensions) to be used for solar panel installations;
  - (4) A circuit map indicating overhead and underground installations, and number of required circuits proposed per collection line run;
  - (5) Typical details associated with trenchless installations, including typical staging areas, construction machinery arrangements, and bore pits; and
  - (6) Technical data sheets associated with solar panels to be used for this Project.
- (h) For interconnection facilities, the plans and drawings required by subsections (a) through (g) of this exhibit for the proposed interconnection facilities and a profile of the centerline of the interconnection facilities at exaggerated vertical scale.
- (I) A list of engineering codes, standards (including the NESC), guidelines and practices that the Applicant intends to conform with when planning, designing, constructing, operating and maintaining the Project, electric collection system, substation, and 345kV switchyard and tap line, and associated structures, as applicable. These standards will include those of the ACI and the Building Code of NYS applicable to the Project.
- (J) All wetland boundaries will be included in the Application on maps, site plans, and shapefiles. Interpolated boundaries will be differentiated from field-delineated boundaries when displayed on maps, site plans, and shapefiles.
- (k) Site plan drawings, referenced in 11(a) above, at a scale of 1":100' (or similar) will depict all Project components; proposed grade changes; the limits of ground disturbance and vegetative clearing; and all field-delineated wetlands, predicted wetland boundaries and NYSDEC-regulated 100-foot adjacent areas located within 500 feet of all areas to be disturbed by construction.

### 3.12 Construction (Exhibit 12)

A preliminary Quality Assurance and Control Plan will be included in the Application. This plan will detail staffing positions and qualifications necessary to hold such positions and demonstrate the monitoring process for the Project. The Application will also include a statement from the Applicant confirming that all requirements for the protection of underground facilities contained in Public Service Law § 119-b, as implemented by 16 NYCRR Part 753, as well as pole-numbering and marking requirements implemented by 16 NYCRR Part 217 (if determined to be required), will be met.

#### **Construction Activities**

Several activities must be completed prior to the proposed commercial operation date. The majority of the activity relates to equipment ordering lead-time, as well as design and construction of the Project Facility. Below is a preliminary list of activities necessary to develop the Project. Pre-construction, construction, and post-construction activities for the proposed Project include, but are not limited to:

- Ordering of all necessary components including solar photovoltaic panels, racking, mounting posts, and transformers;
- Complete surveys of properties, locations of all structures and roadways;
- Coordinate with the owners of pipelines and underground infrastructure that pass through the Study Area;
- Soil borings, testing, and analysis for proper foundation design and materials;
- Installation of erosion and soil management measures required pursuant to the SPDES General Permit;
- Complete construction of access roads, to be used for construction and maintenance;
- Construction of collection lines (mostly underground, and if necessary, above ground);
- Design and construction of the collection substation;
- Installation of solar array mounting posts;
- Solar panel placement and setting;
- Acceptance testing of facility; and
- Commencement of commercial operation.

For construction, access roads are typically built to allow for the delivery of components. The access road will consist of an aggregate surface and will be adequate to support the size and weight of maintenance vehicles. The specific solar array placement will determine the amount of access roads that will be constructed for the Project. During the construction phase, several types of light, medium, and heavy-duty construction vehicles will travel to and from the Project Area, as well as private vehicles used by construction personnel. The general area in which access roads will be required, to be located in a manner that mitigates environmental impacts to the maximum extent practicable, will be presented in the Application. Detailed design and engineering information about final access roads will be presented as part of any required filing with the Secretary and/or Compliance Filing.

### **Construction Management**

While a yet to-be determined Engineering and Procurement Contractor(s) (EPC) will be tasked with constructing the Project, Excelsior Energy Center's construction managers will be on-site overseeing the EPC contractor(s) and will ultimately be responsible for managing and constructing the Project. The EPC contractor(s) will undertake the following activities:

- Purchase of some material and equipment;
- Schedule execution of construction activities; and
- Obtain construction labor.

The contractor(s) also serves as key contact and interface for subcontractor coordination. The EPC contractor(s) will oversee the installation of collection lines as well as the proposed collection substation and 345kV switchyard. The contractor(s) will also install solar arrays, access roads, and the proposed collection substation and switchyard foundations, as well as coordinate materials receiving, inventory, and distribution. The Project will be constructed under the direct supervision of a NEER on-site construction manager.

The construction team will be on-site to handle materials purchasing, construction, quality control, testing, and start-up. Throughout the construction phase, ongoing coordination will occur between the project development and construction teams. The on-site construction manager will help to coordinate all aspects of the proposed Project, including ongoing communication with local officials. The Project construction sequence will include specific details relating to the

implementation of any certificate requirements, including any approved BMPs and the requirements of the SPDES to avoid and/or mitigate impacts, to the maximum extent practicable, to sensitive natural resources, including wetlands, waterbodies and flood zones. Details and descriptions of proposed BMPs and other avoidance/mitigation measures will be provided in the Application.

Even before the Project becomes fully operational, the O&M personnel will be integrated into the construction phase. The construction manager, the construction environmental compliance manager, and the O&M personnel manager will work together continuously to ensure a smooth transition from construction through solar array commissioning and, finally, operation.

### **Civil Works**

Completion of the Project will require various types of civil works and physical improvements to the land. These civil works may include the following:

- Clearing and grading for solar array installations, if determined necessary;
- Installation of underground (and, if required, overhead) collection lines for connecting the solar arrays to the Project collection substation;
- Installation of any Project Area fencing and security; and
- Restoration and re-vegetation of disturbed land when construction activities are completed.

Additionally, the Application will include preliminary plans and descriptions indicating avoidance of interference with existing utilities, including gas, electric and communications infrastructure.

### **Commissioning**

The Project will be commissioned after completion of the construction phase. The Project will undergo detailed inspection and testing procedures prior to final commissioning. Inspection and testing will occur for each component of the system, as well as the communication system, high voltage collection system, and the supervisory control and data acquisition (SCADA) system.

### **Complaint Resolution**

Throughout the construction process and operations, Excelsior Energy Center will remain committed to addressing any comments, concerns or complaints brought forth by the public. If issues are identified by the public, they will be addressed through one formal Complaint Resolution Plan which will be included as an appendix to the Application. The procedures will provide details on how complaints will be received, when these methods will be communicated to the public, the timeframe in which complaints will be responded to, steps to take when the complaints cannot be resolved by the Applicant, and how complaints will be recorded and tracked. The Applicant will make the Complaint Resolution Plan available to the public. The Applicant will make reasonable efforts to respond to all complaints from residents and businesses quickly and resolve complaints in a timely manner.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 12 of the Application in accordance with 16 NYCRR § 1001.12:

- (a) Preliminary quality assurance and control procedures, including staffing positions and qualifications necessary and demonstrating how the Applicant will monitor and assure conformance of facility installation with all applicable design, engineering and installation standards and criteria.
- (b) A statement from a responsible company official that:
  - (1) The Applicant and its contractor(s) will conform to the requirements for protection of underground facilities contained in PSL § 119-b, as implemented by 16 NYCRR Part 753.
  - (2) The Applicant will comply with pole numbering and marking requirements, as implemented by 16 NYCRR Part 217 (if determined to be required).
- (c) Preliminary plans and descriptions indicating design, location and construction controls to avoid interference with existing utility transmission and distribution systems, indicating locations and typical separations of proposed facilities from existing electric, gas infrastructure (production or storage wells, pipelines, and related components), and

communications infrastructure and measures to minimize interferences where avoidances cannot be reasonably achieved. If any existing gas pipelines are located in the Project Area, the following will be provided, to the extent available:

- (1) A review of publicly recorded easements associated with the pipelines;
  - (2) An indication of any publicly recorded restrictions associated with the easement for crossings and setbacks;
  - (3) Results of a consultation with the owner of the pipelines requesting specific information regarding crossings of or Project component installations nearby the existing utility;
  - (4) To the extent provided upon written request of the Applicant, utility owner criteria for installations of Project components near the existing pipelines;
  - (5) Descriptions of any potential studies required or recommended by the pipeline owners (along with an indication of timing of the studies);
  - (6) Specific separation requirements or recommendations regarding specific Project components (collection lines, panels, etc.) in relation to the existing pipelines;
  - (7) Descriptions and typical details of any required or recommended protective features to be placed at crossings of or nearby the existing pipelines; and
  - (8) Communications and coordination requirements of the pipeline Project owner-operators for construction within the pipeline ROW.
- (d) Specification of commitments for addressing public complaints, and procedures for dispute resolution during facility construction and operation. The Complaint Resolution Plan shall identify and include any procedures or protocols that may be unique to each phase of the Project (e.g., construction, operation, decommissioning) or complaint type (e.g., noise). The Application will include a plan for maintaining a complaint log listing all complaints and resolutions during construction and operations of the Project and will include a procedure for review and transmittal of the complaint log to DPS staff.



- (e) A statement regarding how and when the Applicant will communicate with stakeholders about construction activities, schedule, and applicable safety and security measures.

### 3.13 Real Property (Exhibit 13)

Excelsior Energy Center has entered into option-to-lease agreements for all parcels where Project components will be sited. Appropriate documentation supporting these actions, as available, will be included in the Application and redacted as necessary to protect confidential information. A statement demonstrating that the Applicant has or will obtain any additional rights deemed to be necessary to proceed with the Project will also be provided in the Application, if applicable.

A map of the Project facilities showing all property boundaries, owner and tax map information, easements, public and private roads, zoning and related designations will be included in the Application.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 13 of the Application in accordance with 16 NYCRR § 1001.13:

- (a) A survey of the Project Area showing property boundaries with tax map sheet, block and lot numbers; the owner of record of all parcels included in the Project Area and for all adjacent properties; land rights, easements, grants and related encumbrances on the Project Area parcels; public and private roads on or adjoining or planned for use as access to the Project Area; zoning and related designations applicable to the Project Area and adjoining properties.
- (b) A property/ROW map of all proposed interconnection facilities and off-property/ROW access drives and construction lay-down or preparation areas for such interconnections, as applicable.
- (c) A demonstration that the Applicant has obtained title to or a leasehold interest in the Project Area, including ingress and egress access to a public street, or is under binding contract or option to obtain such title or leasehold interest, or can obtain such title or leasehold interest.

- (d) A statement that the Applicant has obtained, or can obtain, such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the Project.
- (e) There are currently no improvement district extensions necessary for the Project. Therefore, this will not be included in the Application.

### 3.14 Cost of Facilities (Exhibit 14)

The Application will provide an estimate of total capital costs associated with the Project for review by the Siting Board subject to applicable Article 10 regulations; however, certain information is considered proprietary and will be provided under separate cover and requested to be treated as trade secret and/or confidential commercial information under applicable regulations.

Costs identified will be estimates and will include the costs associated with development and permitting, solar arrays, the balance of Project equipment and engineering, and other costs necessary for interconnecting the Project to the New York bulk transmission system. Sources for these costs will be determined based on relevant industry experience building solar energy projects and estimated third-party vendor pricing.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 14 of the Application in accordance with 16 NYCRR § 1001.14:

- (a) A detailed estimate, as explained in (b) below, of the total capital costs of the proposed Project, including the costs associated with development and permitting, solar arrays, energy storage, the balance of Project equipment and engineering, and other costs necessary for interconnecting the Project to the New York grid. However, this information is proprietary. Therefore, the Applicant will seek the requisite trade secret and/or confidential commercial information protection for this information pursuant to POL Section 87(2) (d) and 16 NYCRR § 6-1.3.
- (b) The cost estimate provided in subdivision (a) above will be based on the Applicant's experience in building solar energy projects in the United States and estimated prices from third-party vendors associated with the various Project components.
- (c) Upon the demand of any party or of the DPS, the Applicant shall supply the work papers from which the estimates required by subdivision (a) were made, provided that demand is made in the form of a written request. However, this information is proprietary and typically treated as trade secret and/or confidential commercial information. Therefore, the Applicant will seek the requisite trade secret and/or confidential commercial

information protection for this information pursuant to POL Section 87(2) (d) and 16 NYCRR § 6-1.3.

### 3.15 Public Health and Safety (Exhibit 15)

The Project will not cause public health or safety concerns. Solar energy is considered to be one of the cleanest forms of electricity production. One of the greatest advantages of solar energy production is the maintenance of air quality without water consumption or wastewater discharges. Solar energy generates electricity without emitting pollutants. Solar energy technology allows for production of electricity without creating any gaseous, liquid, or solid wastes, and therefore eliminates the need to treat, collect, transport and dispose of such waste in any significant amount. As described earlier, and as will be discussed in the Application, the Project is consistent with the SEP, the CES, and the CLCPA.

The Project will also use lithium-ion battery technology that can provide 20 MW of continuous power for four hours and then recharge. During charging, electricity from the power grid is delivered to bi-directional inverter(s). The inverter(s) converts the alternating current (AC) electricity from the power grid to direct current (DC). The DC electricity then goes into the batteries that are housed within cabinets. During discharging operation, when the electricity is needed on the power system, the inverters then convert the DC electricity from the batteries back into AC. This power is stepped up in voltage and ultimately delivered to the electric grid.

Energy storage is a safe technology that stores excess energy generated from the sun to be distributed to the grid during night-time hours. Each energy storage cabinet will contain battery cells enclosed in modules and stacked into racks, a battery management system, fire suppression equipment, and a thermal management system. Energy storage will be monitored continuously to provide routine and safe operations. Exposure to the battery will not adversely affect an individual upon physical contact, inhalation, or oral contact. No personal protective equipment is required for the handling of a battery. The battery cells, when properly housed within modules and stored in racks, are not flammable. Under testing conducted on behalf of the National Fire Prevention Association, it is recommended that first responders utilize typical firefighting self-contained breathing apparatus (SCBA) equipment when responding to an outdoor lithium-ion battery fire. The equipment available to present day first responders can be considered adequate for battery firefighting. Additional information on battery storage system and its consistency with the Uniform Fire Prevention and Building Code (Uniform Code) will be provided in the Application.

The Project will not result in negative impacts to air quality. Depending upon the location of existing fossil fuel units, the Project may displace air pollutant emissions from existing generators. Exhibit 8 of the Application will address and expected reduction in air emissions. Any air emissions from the Project are limited to very minor levels during construction activities due to construction equipment and vehicles, typical of large commercial construction sites. The only waste generated by the Project will be minimal amounts of solid waste generated during the construction phase. These materials may include small amounts of plastic, wood, cardboard, and metal packing materials, construction scrap, waste concrete from concrete truck washout, and general refuse, which will be properly recycled or disposed of at a nearby solid waste management facility in accordance with applicable regulations. The handling of wood waste from site clearing activities will also be addressed. In addition, small amounts of waste may be generated during routine maintenance activities (e.g., cardboard, cleaning rags and general refuse). Exhibit 15 of the Application will address how the waste materials will be properly recycled or disposed of at a nearby licensed landfill facility and will also address the specific local solid waste collection services, landfills, or transfer stations within the Project Area.

In accordance with the requirements of 16 NYCRR §1001.15, the Application will include a summary of the review performed to evaluate potentially significant adverse impacts on the environment, public health and safety associated with construction and operation of the Project. Although not anticipated, the Application will present a plan for mitigation and monitoring activities to be employed should any potential impacts be identified that warrant continued monitoring.

The Project is not expected to have any negative impacts to public or private water supplies. There will be no water withdrawal involved with operation of the Project. BMPs, such as erosion control measures (e.g., silt fence, hay bales) will be utilized during construction in order to avoid stormwater runoff to wetlands or waterbodies. The Application will include a proposed Stormwater Pollution Prevention Plan (SWPPP) describing these BMPs.

The Application will include maps, contacts and analysis showing the relation of the proposed Project Area to community emergency response resources and facilities including police, fire, and emergency medical response facilities and plans and hospitals. Community emergency response services for the Project Area and larger Study Area include:

- Batavia Fire Department Inc;
- Batavia Fire Department Station 1;
- Batavia Fire Department Station 2;
- Batavia Fire Department Station 3;
- Bergen Fire Department;
- Byron Fire Department 1 Inc;
- Elba Fire Department;
- LeRoy Fire Department;
- Batavia Detective Bureau;
- LeRoy Police Department;
- South Byron Volunteer Fire Company Inc;
- Stafford Fire Department Inc;
- Genesee County Sheriff;
- New York State Police; and
- United Memorial Medical Center.

The Project is not anticipated to have adverse impacts on any of the topics listed in 16 NYCRR § 1001.15(f), as will be documented in the Application. Mapping of the Study Area and analysis based upon publicly available information will be provided in the Application showing the relation of the Project Area to: public water supply resources; designated evacuation routes; existing known hazard risks including flood hazard zones, storm surge zones, landslide hazard areas, areas of geologic, geomorphic or hydrologic hazard; dams, bridges and related infrastructure; explosive or flammable materials transportation or storage facilities; contaminated sites; and other local risk factors, should any be identified.

### **Proposed Studies**

The Applicant will prepare a statement and evaluation in the Application that identifies, describes, and discusses all potential significant adverse impacts of the construction and operation of the Project and related facilities on the environment, public health, and safety, at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence and identifies the current applicable statutory and regulatory framework.



The Applicant proposes to collect, evaluate and provide the following information to support and prepare Exhibit 15 of the Application in accordance with 16 NYCRR § 1001.15:

- (a) The anticipated gaseous, liquid and solid wastes to be produced at the Project during construction and under representative operating conditions of the Project, including their source, anticipated volumes, composition and temperature, and such meteorological, hydrological and other information needed to support such estimates. Studies referenced shall identify the author and date thereof, used in the foregoing analysis. This will also include consideration of waste wood generated during site clearing, including stumps and slash, and proposed methods to manage these materials.
- (b) The anticipated volumes of such wastes to be released to the environment during construction and under an operating condition of the Project. Thin-film solar cell technology is not being proposed. A manufacturer's specification sheet for the typical type of crystalline silicon solar panel to be used will be provided.
- (c) The treatment process to eliminate or minimize wastes to be released to the environment.
- (d) The manner of collection, handling, storage, transport and disposal for wastes retained and not released at the site, or to be disposed of.
- (e) Impacts specific to wind powered facilities will not be addressed in the Application as they are not applicable to the Project.
- (f) Maps of the Study Area and analysis showing relation of the proposed Project Area to public water supply resources; community emergency response resources and facilities including police, fire and emergency medical response facilities and plans; emergency communications facilities; hospitals and emergency medical facilities; designated evacuation routes; existing known hazard risks including flood hazard zones, storm surge zones, landslide hazard areas, areas of geologic, geomorphic or hydrologic hazard; dams, bridges and related infrastructure; explosive or flammable materials

transportation or storage facilities; contaminated sites; and other local risk factors, should any be identified.

- (g) All significant impacts on the environment, public health, and safety associated with the information required to be identified pursuant to subdivisions (a) through (f) above, including all reasonably related short-term and long-term effects.
- (h) Any adverse impact on the environment, public health, and safety that cannot be avoided should the proposed Project be constructed and operated and measures for monitoring and measuring such impacts, if applicable.
- (i) Any irreversible and irretrievable commitment of resources that would be involved in the construction and operation of the Project, if applicable.
- (j) Any measures proposed by the Applicant to minimize such impacts, as applicable.
- (k) Any measures proposed by the Applicant to mitigate or offset such impacts, if applicable.
- (l) Any monitoring of such impacts proposed by the Applicant, if applicable.
- (m) Should the Applicant choose to employ the use of herbicides or fertilizers, information will be provided in the Application identifying typical types utilized and the reasoning for their use.
- (n) In addition to the requirements outlined in subdivisions (a) through (l) above, the Applicant will perform receptor surveys using publicly available information and field visits to determine full-time and part-time residences in the vicinity of the Project Area property boundaries to document whether there will be operational sound impacts to such residences as a result of the Project that exceed any applicable state or local standards.
- (o) A glare analysis will be prepared in accordance with proposed study for Exhibit 24.

### 3.16 Pollution Control Facilities (Exhibit 16)

The Project will not generate pollutants on any ongoing basis, nor require any pollution control facilities. Additionally, the Project will not utilize an emergency generator. Therefore, this requirement is not applicable to the Excelsior Energy Center. Therefore, this information will not be included in the Application.

### 3.17 Air Emissions (Exhibit 17)

Solar power facilities generate electricity without combusting fuel or releasing pollutants into the atmosphere. Once operational, the Project will produce electricity without emitting greenhouse gases or other air pollutants. The Project will also not require the use of an emergency generator.

#### **Compliance with Applicable Federal, State, and Local Regulatory Requirements**

Solar facilities generate electricity without releasing pollutants into the atmosphere; therefore, the Project is not subject to the Environmental Protection Agency (EPA) New Source Performance Standards (NSPS), which regulate emissions of air pollutants from new stationary sources and will not require air pollution control permits under the Clean Air Act (CAA) or New York State law or regulation.

Additionally, the Project will generate electricity without releasing SO<sub>2</sub> or NO<sub>x</sub>. As such, the Project is not subject to the requirements under the 1984 State Acid Deposition Control Act, which requires the reduction of SO<sub>2</sub> emissions from existing sources and nitrogen oxides NO<sub>x</sub> emission controls on new sources in New York State. SO<sub>2</sub> and NO<sub>x</sub> in the atmosphere are the primary causes of acid rain.

#### **Emissions by Combustion Sources Table**

The table required by 16 NYCRR § 1001.17(c) summarizing the rate and amount of emissions by combustion sources is not applicable to the Project and will not be included in the Application. This exclusion is due to the fact that solar generation facilities generate electricity without combusting fuel or releasing pollutants into the atmosphere.

#### **Potential Impacts to Ambient Air Quality**

The operation of the Project is anticipated to have a positive impact on air quality by producing electricity with zero emissions. The operation of the Project is expected to offset air emissions from other sources of electrical generation such as fossil fuel powered generation plants. Since solar facilities generate electricity without combusting fuel or releasing pollutants into the atmosphere, the specific requirements of 16 NYCRR § 1001.17(d) pertaining to pollutant emissions are not applicable to the proposed Project and will not be included in the Application.

Potential temporary impacts to ambient air quality resulting from the construction of the Project, typical of a commercial construction project, will be discussed in the Application. Such impacts could occur as a result of emissions from engine exhaust and from the generation of fugitive dust during earth moving activities and travel on unpaved roads. The increased dust and emissions will not be of a magnitude or duration that will significantly impact local air quality during the approximately 9 to 12 months of Project construction. These impacts will be mitigated to the maximum extent practicable through the use of BMPs such as:

- Use of ultra-low sulfur diesel fuel in all diesel engines;
- Proper maintenance of all manufacturer supplied air pollution control equipment on all engines;
- Minimization of diesel idling time whenever possible; and
- Use of dust and erosion control measures consistent with NYSDEC's New York State Standards and Specifications for Erosion and Sediment Control (SSESC), such as spraying access roads with water as necessary (NYSDEC, 2016).

#### **Offsite Consequence Analysis for Ammonia Stored Onsite**

No ammonia will be stored on-site during Project construction or operation. Therefore, the offsite consequence analysis required by 16 NYCRR § 1001.17(e) is not applicable to the Project and will not be included in the Application.

#### **Proposed Studies**

Exhibit 17 of the Application will contain a discussion on potential temporary impacts to ambient air quality resulting from the construction of the Project, typical of a commercial construction project. Such impacts could occur as a result of emissions from engine exhaust and from the generation of fugitive dust during earth moving activities and travel on unpaved roads. There will be no back-up generator installed for operation of the Project. An identification of appropriate control and mitigation measures to minimize potential adverse impacts will be provided.

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 17 of the Application in accordance with 16 NYCRR § 1001.17:

- (a) The inapplicability to the Project of with applicable Federal, State, and local regulatory requirements regarding air emissions.

### 3.18 Safety and Security (Exhibit 18)

In order to ensure security and safety, an early-development safety plan with a safety tailboard form, construction safety plan, and an operations safety plan will be provided in the Application to help identify the precautions that will be taken in regard to safety relative to the survey, design, layout, construction and operations of the Project. In addition, safety measures are currently employed for all development site-related activities, such as environmental and cultural surveys, land surveys, micro-siting, etc.

The construction contractor will be required to provide a site security plan for Project construction, which will be developed by the contractor selected to lead the construction of the Facility (i.e., EPC contractor). Preparation of the site security plan will initiate immediately following selection of the EPC contractor and will be provided to the Siting Board as part of any required Compliance Filing or filed with the Secretary. Measures to ensure safety and security during construction may include (but not be limited to) fencing of the construction laydown yard, locking gates to the yard during off-work hours, and posting signs notifying the public of active construction sites. A series of traffic-related signs and road safety measures will also be put in place to help ensure safe driving conditions for the public and Project construction workers. This traffic management plan will be developed for the Project in consultation with local officials and submitted as part of any required Compliance Filing or filed with the Secretary. The Applicant will communicate with stakeholders within the Project Area (and surrounding Study Area) to ensure their awareness of construction activities and the applicable safety and security measures.

Nearly all construction will take place on private property, reducing access to general public traffic. Primary access controls for ensuring public safety during both construction and operation includes design setbacks, security fencing, and locked access to the Project Area, proposed collection substation, and 345kV switchyard which functions as a way to restrict public access to the facilities.

Exhibit 18 of the Application will also describe the purposes, equipment, and planned usage for the various lighting that will be necessary for Project construction and operation. During construction this includes security lighting, which will both ensure safe on-site worker activity, and also serve to minimize trespassing. Security lighting will be focused downward to minimize any impacts to wildlife or visual receptors. Manually activated lighting will also be utilized while

maintenance activities are occurring. In general, lighting used will be the minimum levels needed to accomplish the purpose and will not be used when unnecessary. Certain electronic security controls and surveillance systems may also be implemented.

With regards to cybersecurity of the Project's digital networks and communication systems, the Applicant will comply with the North American Electric Corporation (NERC) Critical Infrastructure Protection (CIP) standards. The Applicant will utilize a facility that is compliant with the necessary NERC CIP standards. All firewalls and servers are continuously monitored on a 24-hour, 7-day basis by a Security Operations Center and all employees are required to complete training in information security awareness.

In addition to these preliminary plans, Excelsior Energy Center will implement an Emergency Response Plan (ERP). This plan will outline the contingencies that would constitute a safety or security emergency, the appropriate response measures to be taken as a result of the emergency, any evacuation control measures that may be necessary, and the means by which the community will be notified of the emergency and any procedures that shall be followed. In addition, any on-site equipment and system information will be provided to the appropriate emergency response agencies, including the local fire and police departments. The local entities, all on-site equipment, and any on-site safety control measures (i.e., fire extinguishers and their locations) will be included in the Draft ERP, which will be submitted with the Application.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 18 of the Application in accordance with 16 NYCRR § 1001.18:

- (a) A preliminary plan for site security of the proposed Project during construction of such facility, including site plans and descriptions of the following site security features (if circumstances dictate their use):
  - (1) Access controls including fences, gates, bollards and other structural limitations;
  - (2) Electronic security and surveillance facilities;



- (3) Security lighting, including specifications for lighting and controls to address work-site safety requirements and to avoid off-site light trespass; and
  - (4) Setback considerations for Project components which may present hazards to public safety.
- (b) A preliminary plan for site security of the proposed Project during operation of such facility, including site plans and descriptions of the following site security features, including consideration of local zoning and land use regulations for fence-line setbacks and security fencing design requirements (if circumstances dictate their use):
- (1) Access controls including fences, gates, bollards and other structural limitations;
  - (2) Electronic security and surveillance facilities;
  - (3) Security lighting, including specifications for lighting and controls to address work-site safety requirements and to avoid off-site light trespass;
  - (4) Lighting of facility components to ensure aircraft safety;
  - (5) Setback considerations for Project components which may present hazards to public safety, as well as setback considerations with respect to wildlife and habitats as presented in Exhibit 22; and
  - (6) A description of a cyber-security program for the protection of digital computer and communication systems and networks that support the Facility demonstrating compliance with current standards issued by a standards setting body generally recognized in the information technology industry, including, but not limited to, the Federal Department of Commerce's National Institute of Standards and Technology (NIST), the NERC, or the International Organization for Standardization (ISO), and providing for periodic validation of compliance with the applicable standard by an independent auditor.
- (c) A preliminary response plan to ensure the safety and security of the local community, including:

- (1) An identification of contingencies that would constitute a safety or security emergency;
  - (2) Emergency response measures by contingency;
  - (3) Evacuation control measures by contingency; and
  - (4) Community notification procedures by contingency. These procedures will include a detailed description of the stakeholders included in the communication/notification efforts, the timeframes for notification, and the planned communication methods (e.g. letter, doorhangers, electronic mail, text, telephone calls, etc.). Mandatory plans for how these communications will be tracked and reported in a log to DPS Staff will be identified and discussed in the Application.
- (d) A statement that the Applicant will provide a copy of the plans required in subdivisions (a), (b), and (c) of this Exhibit to, and request review of such plans and comment by, the New York State Division of Homeland Security and Emergency Services (DHSES).
- (e) This facility is not located within any part of a city with a population over one million, therefore this section of the Exhibit 18 regulation is not applicable.
- (f) A description of all on-site equipment and systems to be provided to prevent or handle fire emergencies and hazardous substance incidents.
- (g) A description of all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident will be provided in the Application. Relevant on-site equipment and system information will be provided to the appropriate emergency response agencies, including the local fire and police departments. The local entities, all on-site equipment, and any on-site safety control measures (i.e., fire extinguishers and their locations) will be included in the ERP, which will be submitted with the Application. Local fire, police, and emergency response agencies will be consulted to review the draft ERP and preliminary plans.

- (h) A statement that the Applicant will consult with local emergency first responders during the development of the Emergency Response Plan (ERP). The Applicant will provide a copy of the plans required in subdivision (c) of this Exhibit to, and request review of such plans and comment by, local emergency first responders serving the Project Area and a review by the Applicant of any responses received.
- (i) The ERP will outline the contingencies that would constitute a safety or security emergency, the appropriate response measures to be taken as a result of this emergency, any evacuation control measures that may be necessary, and the means by which the community will be notified of the emergency and any procedures that shall be followed.
- (j) The Applicant will identify the first responders/emergency services that will be consulted during the development of the ERP and those identified will receive copies of the final site plan.
- (k) The Application will address how the Applicant will provide information and training to the local emergency response organizations, to instruct such entities on how to respond to emergencies that occur on, near, or as a result of the operation of the solar facility.

### 3.19 Noise and Vibration (Exhibit 19)

A benefit of solar energy centers is that they generate electricity without the use of major sound emitting sources. Sound emitting sources associated with the operation of the Project are limited to the inverters, energy storage and the transformer(s) associated with the proposed collection substation and 345kV switchyard. The energy storage cabinets may be cooled with an HVAC system. The inverters are used to convert locally generated direct current (DC) into alternating current (AC) power that is then routed to the collection substation through underground collector cables. Inverters are generally considered a low-level source of noise and will be located among the arrays, away from the boundary of the Project Area. Additionally, they only produce sound while converting DC current into AC power and, therefore, the minimal sound emitted from the inverters will only occur during periods with sunlight. Energy storage will be located near the inverters, storing DC energy before it is converted to AC power. Sound levels from energy storage are low as they arise from a very small transformer and cooling of the storage units. Additionally, the collection substation and 345kV switchyard will be sited away from sensitive sound receptors to the maximum extent practicable to avoid potential sound impacts from transformers.

In accordance with the requirements of 16 NYCRR § 1001.19, a pre-construction noise impact assessment (PNIA) will be conducted to determine existing environmental sound levels within the Project Area, what the expected operational sound levels from the Project are likely to be, and how they compare to pre-construction levels and applicable substantive local or State noise standards. Components of the assessment include the mapping of potentially sensitive noise receptors, field measurements of current sound levels, an analysis of construction sound levels, the modeling of operational sound emissions, and the determination of the various statistical quantities detailed in 16 NYCRR § 1001.19(f).

The field work and subsequent analyses will be carried out by a reputable acoustical engineering firm that has specialized in noise assessments for power generation projects. The acoustical engineering firm's qualifications and relevant experience will be included in the Application.

Two surveys of existing background sound levels will be undertaken to evaluate the possibility of seasonal/vegetation variation, one with leaf-on (i.e., summertime) conditions and one with leaf-off (i.e., wintertime) conditions. Exhibit 19 of the Application will include a report summarizing the noise expert's assessment of the ambient noise environment, using the sound data collected on-

site during the leaf-on and leaf-off monitoring periods. Ambient pre-construction noise monitoring locations were determined based upon proximity of residences to solar arrays, variation in existing noise sources, and site access.

A map of the Project Area showing the location of sensitive sound receptors in relation to the Project, including the collection substation, 345kV switchyard, and energy storage cabinets will be included in the Application. A desktop analysis using aerial imagery and field verification will be used to preliminarily identify and classify sensitive sound receptors within the Project Area. If access for field verification is not possible and aerial imagery cannot provide an obvious classification of a structure (i.e., residential vs. non-residential), the structure will be assumed to be a sensitive sound receptor. The sensitive sound receptors shown will include residences, outdoor public facilities and areas, hospitals, places of worship, and schools.

### **Construction and Operation Noise**

Project construction will require the operation of heavy equipment for activities such as clearing, grading, access road construction, material and component delivery, installation of electrical interconnect, solar array construction, and site restoration. It is expected that Project-related construction noise will be similar to that of typical road or utility construction projects. Construction noise may be audible on a temporary basis at residences close to solar array locations, trenching operations or access road building activities. These temporary impacts are likely to go unnoticed in many areas because of the remote location of many construction activities due to required setbacks from roads and residences. An analysis will be performed to quantify these construction-related sound levels.

Impacts during operations from low frequency noise or tones are not expected to be significant as part of the Project. As part of the Application, analyses will be carried out to tabulate the A-weighted broadband and low frequency whole octave band (31.5 Hertz [Hz], 63 Hz and 125 Hz) sound levels at all Project receptors. Sound level impacts from the Project at frequencies below 31.5 Hz may be calculated at the most potentially impacted and representative sensitive receptors if sound level data are available.

As described above, both leaf-on (i.e., summertime) and leaf-off (i.e., wintertime) surveys of existing environmental sound levels will be conducted. The specified statistical parameters for

background noise ( $L_{90}$ ,  $L_{50}$  and  $L_{eq}$ ) will be measured in both surveys and compared with model predictions of Project noise associated with the proposed Project layout, once defined. At least three 1/3 octave band frequency analyzers will be used as sound monitors to record the frequency spectrum of the existing sound levels. At least six total measurement positions, distributed over the Project Area, will be used to evaluate potential geographic variability in sound level within the Project Area.

### **Complaint Resolution**

Throughout the construction process and operations, Excelsior Energy Center will remain committed to addressing any comments, concerns, or complaints brought forth by the public. If issues are identified by the public, they will be addressed through the Applicant's formal Complaint Resolution Plan which will be included as an appendix in the Application. The procedures will provide details on how complaints will be received, when these methods will be communicated to the public, the timeframe in which complaints will be responded to, steps to take when the complaints cannot be resolved by the Applicant, and how complaints will be recorded and tracked. The Applicant shall make the Complaint Resolution Plan available to the public. The Applicant will make reasonable efforts to respond to all complaints from residents and businesses quickly and resolve complaints in a timely manner.

### **Avoidance and Minimization Measures**

Planned measures to avoid or mitigate, to the maximum extent practical, the noise impacts from the Project include the following:

- Limiting construction activities to certain days (Monday through Saturday) and hours unless otherwise granted the applicable approval; and
- Optimizing the overall layout to maximize, to the extent practicable, distances from potentially sensitive receptors.

### **Proposed Studies**

Exhibit 19 of the Application shall contain a study of the potential noise impacts of the construction and operation of the Project. The study will include the solar arrays, related facilities, energy storage facilities and ancillary equipment, including the proposed collection substation and 345kV switchyard. The name and qualifications to perform such analyses of the preparer of the study

shall be stated. If the results of the study are certified in any manner by a member of a relevant professional society, the details of such certification shall be stated. If any noise assessment methodology standards are applied in the preparation of the study, an identification and description of such standards shall be stated. The Applicant proposes to collect, evaluate and provide the following information to support and prepare Exhibit 19 of the Application in accordance with 16 NYCRR § 1001.19:

- a) A map of the study area in digital format showing the location of sensitive receptors within 0.25-mile of the Project Area, in relation to the proposed Project, related proposed facilities, ancillary equipment, energy storage facilities, collection substation and 345kV switchyard. The sensitive receptors shown shall include residences (including participating, non-participating, full-time, and seasonal), outdoor public facilities and areas, State Forest Lands, places of worship, hospitals, schools, cemeteries, campsites, summer camps, Public Parks, Federal and NY State Lands and other noise-sensitive receptors, if identified. Seasonal receptors will include, at a minimum, cabins and hunting camps, identified by property tax codes and any other seasonal residences with septic systems/running water.
- b) An evaluation of ambient pre-construction baseline noise conditions:
  - 1) Will include A-weighted/dBA sound levels and prominent discrete (pure) tones, at representative potentially impacted noise receptors using actual measurement data recorded in winter and summer and during day and night as a function of time and frequency (frequency data will include one-third octave bands from 20 Hz up to 10,000 Hz) using a suitable and suitably calibrated sound level meter (SLM) and octave band frequency spectrum analyzer or similar equipment.
  - 2) The ambient pre-construction baseline sound level will be filtered to exclude seasonal and intermittent noise.
  - 3) The pre-construction ambient sound levels will be evaluated in accordance with the requirements of these exhibits and applicable portions of ANSI Standards S12.100-2014 and S12.9 Part 2-1992 R-2013. These methods and standards will be

described in the PNIA and summarized in Exhibit 19 of the Application.

- 4) Graphical timelines for the A-weighted Leq and the L90 broadband noise levels for each pre-construction sound measurement location will be included in the Application.
- 5) Figures for the un-weighted Leq and the L90 full-octave band noise levels (after exclusions, starting at the 16 Hz full octave band or 12.5 one-third octave band) for each pre-construction measurement location will also be included.
- 6) The Application will describe how the pre-construction ambient surveys were conducted including specifications for sound instrumentation and weather meters, calibration, settings, positions that were tested, noise descriptors collected, range of sound frequencies evaluated, weather conditions, testing conditions to be excluded, schedules and time frames, testing methodologies and procedures, provisions for evaluation of existing tones and sounds with strong low frequency noise content, if any.
- 7) Measurement locations will include global positioning system (GPS) coordinates of the sound microphones and annual average daily traffic (AADT) information of the nearest road, to the extent the data is available from the County and/or New York State Department of Transportation (NYSDOT). The Application will include a justification for location selection and specify whether selected locations are representative of potentially impacted receptors.
- 8) The seasonal noise will be filtered by using the process specified in ANSI/ASA S12.100-2014. The intermittent noise will be filtered by reporting the L90. Each sound collection will be conducted for a minimum of 7 consecutive days.
- 9) Temporal accuracy of the ambient data will be calculated to a 95 percent confidence interval using the technique in Section 9 of ANSI S12.9-1992/Part 2 (R2013) or any other applicable statistical procedure as appropriate for the Leq and the L90 noise descriptors.



- 10) The sound instrumentation for ambient sound surveys will comply with the following standards: ANSI S1.43-1997 (R March 16, 2007). Specifications for Integrating-Averaging Sound Level Meters; ANSI S1.11-2004 (R June 15, 2009) Specification for Octave-Band Analog and Digital Filters, and ANSI S1.40-2006 (R October 27, 2011) (Revision of ANSI 1.40-1984) Specifications and Verification Procedures for Sound Calibrators.
  - 11) Data collected out of the range of operation of the sound instrumentation will be excluded. Sound data collected at wind speed exceeding 5 meters per second (11 miles per hour) at the sound microphone or portable weather station heights will also be excluded. Pre-construction sound level data collected during periods of rain, thunderstorms and snowstorms will also not be used in the calculation of background sound levels. These exclusions will be indicated on the graphs specified in this section. New York State Mesonet data from the most representative station may be used to supplement the weather dataset for sound monitoring periods.
- c) An evaluation of future noise levels during construction of the proposed Project, proposed related facilities and proposed ancillary equipment, including predicted A-weighted sound levels at various distances and at proximate potentially impacted and representative sensitive receptors will be performed using the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM), or a 3-D computer propagation model or similar. Information will include predicted sound levels at the nearest sensitive receptor(s) around the collection substation, including the loudest pieces of equipment for the different phases of construction. By its very nature, construction equipment typically moves around the site. For construction sound level impacts, a “table of sound levels vs. distances” will be presented. The construction analysis will include a table indicating the actual distances from expected construction activity to residences around the Project Area. This will provide construction sound levels at residences that will be compared to measured existing sound levels. This section will include a discussion of time frames for construction activities indicating seasons of the year, days of the week, hours of the day, and whether construction activities will be performed during evening time (6:00 p.m. to 10 p.m.), nighttime (after 10:00 p.m. or before 7:00 a.m.), weekends or national holidays.

- d) Future sound levels from the Project will be calculated with the Cadna/A computer software or similar software that uses the ISO 9613-2 standard.
- 1) For the purposes of this Exhibit the term “ISO-9613-2” will refer to the ISO 9613-2:1996 Standard or equivalently the ANSI/ASA S12.62-2012/ISO 9613-2:1996 (Modified) Standard with no meteorological correction (Cmet) or equivalently with the meteorological correction Cmet equaled to a value of zero.
  - 2) The Cadna/A model performs calculations for full octave bands from 31.5 Hertz (Hz) to 8,000 Hz.
  - 3) Computer noise modelling will be performed at a minimum for the Project equipment with the highest Broadband A-weighted sound power level (Maximum dBA sound power level).
  - 4) The Application will include a discussion and justification for ground absorption “G” values that will be used for sound propagation over land.
  - 5) The predicted sound levels from ISO 9613-2 will be reported for sensitive receptors in tabular format and shown at sensitive receptors and external property boundaries through graphical isolines of A-weighted decibels. Contours will start at 30 dBA and shown in 1-dBA increments. Noise contours representing sound levels in multiples of 5 dBA will be differentiated.
  - 6) Participating, developed, and, undeveloped (vacant) non-participating properties will be differentiated. Only properties that have a signed contract with the Applicant as of the date of filing the Application will be identified as “participating”.
  - 7) A temperature of 10 degrees Celsius and 70 percent relative humidity will be used to calculate atmospheric absorption for the ISO 9613-2 model. These conditions result in the smallest reduction in sound levels caused by air absorption at the key frequencies for A-weighted sound levels.

- 8) The Application will include a brief discussion about the accuracy of selected outdoor propagation models, methodologies, ground absorption values, assumptions, and the correlation between measurements and predictions for documented cases as compared to other alternatives, as available.
  - 9) The model will also include relevant noise sources from the proposed collection substation, energy storage facilities, and 345kV switchyard and proposed ancillary equipment. No emergency generators are proposed for the Project.
  - 10) A ground absorption factor,  $G$ , of zero ( $G=0$ ) will be used to represent significant waterbodies.
- e) An evaluation of future noise levels predicted during operation of the Project, related facilities and ancillary equipment including:
- 1) Modeled A-weighted/dBA sound levels at all sensitive receptors.
  - 2) A discussion of whether a tonal condition is possible from the substation, energy storage facilities, or inverters. The “prominent discrete tone” constant level differences ( $K_t$ ) in ANSI S12.9-2013/Part 3 Annex B, Section B.1, will be used to evaluate tones at the nearest 10 potentially impacted and representative noise receptors using spreadsheet calculations if one-third octave band data information are available.
  - 3) Amplitude modulation is not an issue with solar projects and will not be included in the Application.
  - 4) Infrasound and low-frequency sounds:
    - i) Low frequency sounds for the full-octave bands equal to and greater than 31.5 Hz will be evaluated at all the sensitive receptors as listed in Section (a) of this Exhibit. The number of receptors with SPL's equal to and greater than 65 dB

will be reported.

- ii) Infrasound is not an issue for solar projects and will not be included in the Application.
- f) The A-weighted/dBA sound levels, in tabular form for each sensitive location and in graphical form at external property boundary lines, will be calculated. The tables will include the following:
- 1) The daytime ambient noise level will be calculated from leaf on (i.e., summertime) and leaf off (i.e., wintertime) background sound level monitoring data. This will be equal to the L90 of sound levels measured during the daytime at each of the monitoring locations. Daytime will be 15 hours (7 a.m. – 10 p.m.).
  - 2) The leaf on (i.e., summertime) nighttime ambient noise level will be calculated from summer background sound level monitoring data. This will be equal to the L90 of sound levels measured at night, during leaf on conditions at each of the monitoring locations. Nighttime will be 9 hours (10 p.m. – 7 a.m.).
  - 3) The leaf off (i.e., wintertime) nighttime ambient noise level will be calculated from background sound level monitoring data. This will be equal to the L90 of sound levels measured at night, during leaf off conditions at each of the monitoring locations. Nighttime will be 9 hours (10 p.m. – 7 a.m.).
  - 4) The worst case future noise level during the daytime period will be determined for each sensitive receptor listed in Section (a) of this Exhibit by logarithmically adding the most representative daytime ambient sound level (L90) as related to the use and soundscape of the location being evaluated, calculated from background sound level monitoring in Section (f)(1), to the modeled upper tenth percentile sound level (L10) of the Project. The L10 statistical noise descriptor corresponds to the highest short-term daytime sound level. Daytime will be 15 hours (7 a.m. – 10 p.m.).
  - 5) The worst case future noise level during the leaf on (i.e., summertime) nighttime

period will be determined for each sensitive receptor listed in Section (a) of this Exhibit by logarithmically adding the most representative leaf on nighttime ambient sound level (L90) as related to the use and soundscape of the location being evaluated, calculated from background sound level monitoring in Section (f)(2), to the modeled upper tenth percentile sound level (L10) of the Project at each evaluated receptor. Nighttime will be 9 hours (10 p.m. – 7 a.m.).

- 6) The worst case future noise level during the leaf off (i.e., wintertime) nighttime period will be determined for each sensitive receptor listed in Section (a) of this Exhibit by logarithmically adding the most representative leaf off nighttime ambient sound level (L90) as related to the use and soundscape of the location being evaluated, calculated from background sound level monitoring in Section (f)(3), to the modeled upper tenth percentile sound level (L10) the Project at each evaluated receptor. Nighttime will be 9 hours (10 p.m. – 7 a.m.).
- 7) The daytime ambient average noise level will be calculated by logarithmically averaging sound pressure levels (Leq) (after exclusions) from the background sound level measurements over the daytime period at each monitoring location. These calculations will include both leaf on (i.e., summertime) and leaf off (i.e., wintertime) data. Daytime will be 15 hours (7 a.m. – 10 p.m.).
- 8) Typical facility noise levels for each sensitive receptor listed in Section (a) of this Exhibit will be calculated as the median sound pressure level emitted by the Project at each evaluated receptor (L50). The median sound pressure level will likely be similar to the highest short-term daytime sound level.
- 9) Typical facility daytime noise levels for each sensitive receptor listed in Section (a) of this Exhibit will be calculated as the most representative daytime equivalent average sound level (Leq) that was calculated from background sound level monitoring in Section (f)(7), as related to the use and soundscape of the location being evaluated, logarithmically added to the median facility sound pressure level (L50) at each evaluated receptor. The L50 statistical noise descriptor will correspond to the daytime value calculated in Section (f)(8). Daytime will be 15

hours (7 a.m. – 10 p.m.).

- g) A description of the noise standards applicable to the Project, including any local substantive requirements, and noise design goals for the facility at representative potentially impacted noise receptors, including residences, outdoor public facilities and areas, hospitals, schools, other noise-sensitive receptors, and at representative external property boundary lines of the facility and related facilities and ancillary equipment sites.
- h) A table outlining regulations, ordinances, noise standards, guidelines and goals applicable to the Project. The Applicant will review applicable local codes and will provide a summary of applicable substantive noise standards from these codes. In addition, the Applicant will include a summary of noise-modeling results from the PNIA for all sensitive receptors as listed in Section (a) of this Exhibit in relation to applicable noise ordinances, standards, guidelines, goals and identified criteria by using the specific requirements as related to noise descriptors (e.g., Leq, L10), weighting scales, and time frame of determination (e.g., minutes/hour, 1-hour, 1-year). The number of receptors exceeding any identified limit, threshold, goal, guideline, or recommendation will be included in the Application (in terms of absolute and relative numbers). For ease of identification and comparison the sound study prepared for Exhibit 19 of the Application will use the same definition of “sensitive receptor” and will employ a common receptor labelling system as used throughout the Application. Noise levels for participant and non-participant lot boundary lines will be represented as specified in Section (d).
- i) Identification and evaluation of reasonable noise abatement measures for construction activities will be provided, including a description of the Complaint Resolution Plan that shall be provided during the construction period. The Application will include an assessment of reasonable noise abatement measures during construction (i.e., implementing BMPs, Complaint Resolution Plan, etc.).
- j) The Complaint Resolution Plan will include information on how and when the process to file a complaint (i.e., written, electronic, and oral) will be communicated to the public. An identification of any procedures or protocols that may be unique to each phase of the Project (e.g., construction, operation, decommissioning) or complaint type (e.g., noise) will also be included. The Applicant will maintain a complaint log listing all complaints

and resolutions during construction and operations of the Project and the Plan will include a procedure for review and transmittal of the complaint log to DPS Staff. The Town Clerk will be notified when a complaint is filed.

- k) An identification and evaluation of reasonable noise abatement measures for the final design and operation of the Project including the use of alternative technologies, alternative designs, and alternative Project arrangements.
- l) An evaluation of the following potential community noise impacts:
  - 1) The potential for the Project to result in hearing damage will be addressed using OSHA standards, EPA “Levels” document (1974), and the World Health Organization (WHO, 1999).
  - 2) Indoor and outdoor speech interference will be addressed using the EPA “Levels” document (1974) and WHO (1999) Guideline Levels.
  - 3) Potential for annoyance and complaints will include a review of peer-reviewed and/or government-sponsored literature, studies, and/or publications, specific to the relationship between solar project noise and annoyance/complaints.
  - 4) Information regarding construction activities will be included in the Construction Operations Plan, the Preliminary Blasting Plan (if any blasting is determined to be necessary), and the Preliminary Geotechnical Report. Potential for some construction activities (such as blasting, pile driving, excavation, horizontal directional drilling [HDD] or rock hammering, if any) to produce any cracks, settlements or structural damage on any existing proximal buildings, including any residences, historical buildings, or infrastructure will be analyzed in this section and included in the Application.
  - 5) Potential for air-borne or ground-borne transmitted vibrations from the operation of the Facility to reach a sensitive receptor including any sensitive technological, industrial, or medical activities and cause vibrations on the floors or on building envelope elements that may be perceived at the receptor will be evaluated through

a review of peer-reviewed and/or government sponsored literature, studies, and/or publications.

- m) A description of the proposed post-construction evaluation studies and a plan for post-construction evaluations to determine conformance with operational noise design goals will be provided.
- n) An identification of practicable post-construction operational controls and other mitigation measures that will be available to address reasonable complaints, including a description of a complaint resolution plan that shall be provided during periods of operation.
- o) Specific modeling input parameters, assumptions, and any associated data used in sound propagation modeling and calculations will be included as an appendix to the PNIA and shall fairly match the unique operational noise characteristics of the particular equipment proposed for the Project. The Application will include noise source locations (including latitude/longitude coordinates plus elevation above sea level); evaluated participating and non-participating receptor locations (including latitude/longitude coordinates plus elevation above sea level); participant and non-participant boundary lines; and noise source sound level data, where available. These will be delivered directly to DPS Staff by electronic means.



### 3.20 Cultural Resources (Exhibit 20)

#### **Introduction and Record of Consultation**

Consistent with 16 NYCRR § 1001.20, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and the New York Archaeological Council's (NYAC's) Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (1994), the Applicant is initiating consultation with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) to develop a scope and methodology for cultural resources studies for the proposed Project.

To date, a desktop review of cultural resources surveys, reports, recorded site locations, historic areas/buildings, and archaeological sensitivity has been conducted using the OPRHP's Cultural Resources Information System (CRIS). A study of the impacts of construction and operation of the Project on cultural resources will be conducted and detailed in the Application with Phase IA and Phase IB (if required) archaeological survey reports and historic architectural survey report included in the appropriate appendix.

As no field surveys have been conducted to date, the following summarizes the results of a preliminary desktop search. The Application will contain an analysis of the impacts of construction and operation of the proposed Project on cultural resources identified, as well as the results of both the consultation with the OPRHP, the Phase IA and Phase IB studies, and the reconnaissance-level architectural survey. An Unanticipated Discovery Plan will be provided in the Application that identifies the actions to be taken in the event that resources of cultural, historical, or archaeological importance are encountered during construction activities.

The Project will consist of solar arrays, energy storage, access roads, inverters, fencing buried (and possibly overhead) electric collection lines, a proposed collection substation tap line and 345kV switchyard. These elements of the Project will require ground disturbance activities during their installation. It is anticipated that archeological investigations would be required only for areas of significant ground disturbance. Based on a recent solar project in New York State, the OPRHP has determined that certain installation methods of solar arrays and fencing (such as with pile-drivers) do not constitute significant ground disturbance and would in most cases not require archeological investigation. Similarly, installation of buried cables via narrow cable plow may not constitute a significant ground disturbance thereby precluding the need for archeological survey.

### **Phase IA Archaeological Research**

The Applicant has begun a preliminary review of potential Phase IA archaeological resources within the Project Area, resulting in the following information. One archaeological resource, a historic period site, is located within the Project Area (APE for direct effects). Previously recorded historic resources located within five miles of the Project Area include:

- 11 previously recorded archaeological sites have been recorded within the Project Area.
- 31 additional previously recorded archaeological sites have been recorded within a one-mile radius of the Project Area. One of 11 sites dates to the historic period while the remaining 10 sites are prehistoric.
- 1 of 11 sites is noted as eligible for the NRHP while the remaining 10 sites have not been evaluated.
- 28 of the 31 sites are prehistoric period and three are historic period sites within a one-mile radius of the Project area.
- 2 of 31 sites have been determined not eligible for inclusion in the NRHP and the remaining 29 sites have not been evaluated.
- One prehistoric site contains human burials.
- 2 NYSM sites are within a one-mile radius of the Project.

A Phase IA report following the OPRHP Guidelines will be provided to SHPO following the desktop review of cultural resources surveys, reports, recorded site locations, historic areas/buildings, and archaeological sensitivity using the OPRHP's Cultural Resources Information System (CRIS). The report will contain an environmental overview, precontact period and historic cultural contexts, summaries of previous cultural studies, listings of archaeological and historic sites in the surrounding area, research methods, and a discussion of the site sensitivity model and recommendations for Phase IB survey, as needed. The results and research designs of these nearby studies will be reviewed to gain an understanding of acceptable survey methods for projects in similar settings. In support of the text, historical maps and figures will be prepared to illustrate findings, including the development of sensitivity maps. The report will provide recommendations for Phase IB survey methods for review and acceptance by the OPRHP.

### **Phase IB Archaeological Survey**

Preliminary Phase 1A research indicates that locations within the Project Area are considered sensitive for archaeological resources. This includes locations near historic roads and areas where structures have appeared on historic mapping. A Phase IB survey will likely be recommended by the Applicant. Should SHPO concur, then a field methodology for examining the Project Area of Potential Effects (APE) during a Phase IB survey will be proposed. For archaeological resources, the APE is defined as where ground disturbances may occur, inclusive of access roads, workspaces, collection lines, proposed collection substation, POI switchyard, and other areas of significant ground-disturbing activities. The Phase IB field methods will consist of both pedestrian and shovel test pit (STP) survey to locate all archaeological resources within the Project APE. In areas of high and moderate sensitivity, the Applicant will excavate STPs at 15-meter intervals along survey transects in all proposed construction impact areas. To help ascertain the viability of the sensitivity-defined field methods, the Applicant will examine between 5 and 10 percent\* of all areas identified as high and moderate sensitivity with a 5-meter STP interval. The locations of the smaller subset of close interval testing in high and moderate sensitivity areas will be based on suitable areas as determined in the field. (\*Note: The selection of size of the subset will be determined by individual parcel configuration).

In areas of low sensitivity, which consist predominantly of areas of steep slope, a combination of pedestrian survey and judgmental STP excavation will be conducted. Pedestrian survey will be conducted in lieu of shovel testing where steep slope, exposed bedrock, wetlands, and/or ground disturbance precludes the utility of shovel testing. Judgmental STPs will be excavated in areas of micro-topography, such as small level benches on steep slope, possible rock shelter locations, and narrow, ephemeral stream crossings.

Per the OPRHP Guidelines, all STPs will measure 30-50 centimeters (12-20 inches) in diameter and will be excavated to sterile subsoil. All excavated soil will be screened through ¼-inch hardware cloth over tarps or plastic sheeting. Soil strata within each shovel test will be recorded on standardized forms describing Munsell color and USDA soil types. All recovered artifacts will be bagged, labeled, and sent to the laboratory for processing and analysis. All shovel tests will be backfilled after completion. All positive shovel tests will be recorded using a *Trimble* sub-meter accurate GPS unit and plotted on aerial photographs and Project maps.

Additional STP (radials) will be excavated around positive tests in a radial pattern in order to define Isolated Finds. Per OPRHP Guidelines, when artifacts are discovered in an isolated shovel test context, a minimum of eight additional shovel tests at 1-meter (3.3 feet) and 3-meter (10 feet) intervals will be excavated. Radial tests will not be excavated when artifacts are found in two or more adjacent or nearby STPs since this technique is appropriate only for isolated finds and not for archaeological sites. All work will be conducted inside the Project APE. No archaeological survey is anticipated in areas where there will be no proposed disturbance, unless field conditions or construction feasibility warrant a change in design resulting in potential ground disturbance in those areas.

Following completion of Phase IB research, a Technical Report will be prepared following *OPRHP Guidelines*. The report will contain a brief environmental overview, prehistoric and historic cultural contexts, summaries of previous cultural studies, listings of archaeological and historic sites in the surrounding area, fieldwork methods and results, and recommendations. In support of the text, historical maps and photographs will be prepared to illustrate findings. Tables including the artifact inventory and shovel tests results will be appended as needed. The report will provide recommendations on whether the archaeological sites are eligible or ineligible for inclusion in the NRHP, or if additional Phase II studies would be required to determine site eligibility. It is anticipated the report will be filed with the Application. All final documents will be filed with any required Compliance Filing or with the Secretary.

### **Phase II Study**

Should an archaeological site be identified during the Phase I study that cannot be avoided, a Phase II site investigation will be conducted in consultation with the OPRHP. Should a Phase II study be conducted, it would serve to provide a NRHP eligibility determination of the site and define the site boundaries.

### **Discovery of Human Remains**

If Native American human remains are encountered, procedures for such discoveries would be followed in accordance with state regulations. This will involve consultation with the SHPO or Tribal Historic Preservation Office (THPO) and appropriate interested parties in an effort to identify and notify next of kin, closest lineal descendant, or the Indian tribes who may be culturally affiliated with the remains, and to determine appropriate treatment and disposition of the remains.

If human remains are encountered, work in the near vicinity of the remains would cease and reasonable efforts made to avoid and protect the remains from additional impact. In cases of inclement weather, the human remains would be protected with tarpaulins. The county medical examiner would be notified of the discovery. If the remains are found to be other than human, construction will be cleared to proceed. If the remains are human, and are less than 75 years old, the local medical examiner and local law enforcement officials will assume jurisdiction.

If the remains are found to be human and older than 75 years, the OPRHP will be notified and may assume jurisdiction of the remains. If jurisdiction is assumed by the OPRHP, they will a) determine whether the human remains represent a significant archaeological resource, and b) make a reasonable effort to identify and locate persons who can establish direct kinship, tribal community, or ethnic relationship with the remains. If such a relationship cannot be established, then the OPRHP may consult with a committee to determine the proper disposition of the remains. This committee shall consist of a human skeletal analyst, Native American members of current State tribes recommended by the Governor's Council on Indian Affairs, and "an individual who has special knowledge or expertise regarding the particular type of the unmarked human burial."

A plan for the avoidance of any further impact to the human remains and/or mitigative excavation, re-interment, or a combination of these treatments will be developed in consultation with the OPRHP and if applicable, appropriate Native American tribes or closest lineal descendants. Parties will be expected to respond with advice and guidance in an efficient time frame. Once the plan is agreed to by all parties, the plan will be implemented.

The plan will include a provision for work stoppage in the immediate site of the find upon the discovery of possible archaeological or human remains. Evaluation of such discoveries, if warranted, will be conducted by a professional archaeologist, qualified according to the NYAC Standards. The Unanticipated Discovery Plan will specify the degree to which the methodology used to assess any discoveries follows the NYAC Standards.

### **Unanticipated Discovery Plan**

The Application will include an Unanticipated Discovery Plan that will identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance

are encountered during Project construction. This Unanticipated Discovery Plan presents the approach that would be employed to address such emergency discoveries to ensure that any potentially significant archaeological resources discovered are dealt with in full accordance with State and Federal requirements, including the most recent Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State. This approach would also ensure that procedures and lines of communication with the appropriate government authorities are clearly established prior to the start of construction so that discoveries can be addressed in a timely manner, minimizing the impacts to the construction schedule to the extent possible.

Both the environmental inspectors and construction personnel will be provided with a preconstruction briefing regarding potential cultural resources indicators. These indicators would include items such as recognizable quantities of bone, unusual stone deposits and ash deposits, or black-stained earth that could be evident in spoil piles or trench walls during construction. In the event that potentially significant cultural resources or human remains are discovered during construction, the environmental monitors and construction personnel would be instructed to follow the specific requirements and notification procedures outlined below. Cultural resource discoveries that require reporting and notification include any human remains and any recognizable, potentially significant concentrations of artifacts or evidence of human occupation.

If cultural resources indicators are found by construction personnel, the construction supervisor would be notified immediately. The supervisor, in turn, would notify the environmental inspector, who would notify a designated archaeologist, who would be available to respond to this type of find. Based on the information provided, the archaeologist would determine if a visit to the area is required and, if so, would inform the construction crews. No construction work at the immediate discovery site that could affect the artifacts or site would be performed until the archaeologist reviews the site. The site would be flagged as being off-limits for work but would not be identified as an archaeological site per se in order to protect the resources. The archaeologist would conduct a review of the site and would test the site as necessary. The archaeologist would determine, based on the artifacts found and on the cultural sensitivity of the area in general, whether the site is potentially significant and would consult with the OPRHP regarding site eligibility.

### **Historic Architectural Survey**

On June 12, 2019, the NYS SHPO requested “a survey of above-ground historic resources within, adjacent to and within the immediate viewshed to the project APE.” In compliance with Section 106 of the NHPA and Article 10 regulatory requirements, the Applicant will conduct a reconnaissance-level historic architectural survey for the Project. The goal of the survey will be to document architectural resources 50 years or older within the Project APE and evaluate their eligibility for listing on the NRHP. For those properties that are listed or recommended as eligible for listing on the NRHP, the Applicant will further investigate properties for potential visual effects.

### **Architectural Field Survey**

The Applicant will conduct an architectural field survey of the proposed APE. The architectural field survey will revisit all previously recorded resources and document any newly identified architectural resources 50 years old or older that fall within the Project APE. The architectural field survey will include systematically driving all public roads within the APE to identify resources present. All resources will be assessed from public ROW. Based on previous consultation with OPRHP for a previous large-scale solar energy project (EDR, 2017), buildings that are not sufficiently old (less than 50 years), clearly lack architectural integrity, or are otherwise evaluated by the architectural historian as lacking historical or architectural significance will not be included in or documented during the survey.

Any previously identified NRHP-listed historic properties will be checked and photographed to record existing conditions and reassess its current NRHP status. Each previously identified but unevaluated resource and each newly identified resource will be documented via photography. Their locations will be recorded on field maps, and field notes will be recorded describing the style, physical characteristics, materials, condition, integrity, and other noteworthy characteristics of each resource. The NRHP evaluation of historic resources will apply the two-part test of historic significance integrity to determine eligibility.

Upon completion of the field survey, the surveyed architectural resources will be analyzed in accordance with the NRHP Criteria in 36 CFR § 60.4. A Historic Architectural Survey letter report will be produced for submittal to the OPRHP and as part of the Application. The report will include a project description, statement of methodology, historic context, summary of surveyed resource

types, and field results. Survey results will include recommendations of NRHP eligibility/non-eligibility and a preliminary assessment of Project effects, as well as any necessary recommendations for further work. The report will also include maps showing the location of all previously recorded and newly recorded architectural resources in the APE. Surveyed resources will also be entered individually into CRIS with the report and GIS shapefiles for the Project.

### **Agency Consultation and Definition of APE**

The Applicant will consult with the OPRHP concerning the definition of the APE for direct and indirect effects, and its proposed survey methodology. The APE for aboveground structures is defined as the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. For assessment of effects to historic architectural resources, the APE is determined in relation to the nature and scale of new construction, improvements, or demolitions to be made as a result of the continuing O&M of the solar facility.

For assessment of direct effects, the APE is defined as the area of construction. The Project is expected to have no physical impacts to aboveground resources. The APE for indirect (i.e., visual, atmospheric, or audible) effects includes those areas removed in distance, where Project components will be visible and where there is a potential for a significant visual effect. Per the requirements set forth in 16 NYCRR § 1000.2 (ar), the Study Area to be used for analysis of major electric generating facilities is defined as:

*(ar) Study Area: an area generally related to the nature of the technology and the setting of the proposed site. In highly urbanized areas, the study area may be limited to a one-mile radius from the property boundaries of the facility site, interconnections, and alternate location sites. For large facilities or wind power facilities with components spread across a rural landscape, the study area shall generally include the area within a radius of at least five miles from all generating facility components, interconnections and related facilities and alternative location sites. For facilities in areas of significant resource concerns, the size of a study area shall be configured to address specific features or resource issues.*

Considering the Project's relatively low profile compared to wind power facilities, a 5-mile APE is likely inappropriate. Consistent with the viewshed analysis described in Exhibit 24, the Applicant



is proposing a 2- to 5-mile APE radius to identify specific historic resources. The historic resource APE for indirect effects likely comprises those areas within 2 to 5 miles of the proposed Project and which fall within the potential viewshed of the Project (i.e., those areas from which the Project is potentially visible). The 2- to 5-mile-radius Study Area for the Project includes parts of Batavia, Bergen, Byron, Elba, LeRoy, and Stafford; City of Batavia; Villages of Bergen, Elba, and LeRoy; Towns of Barre and Clarendon, in Orleans County; and Town of Sweden in Monroe County.

### **Proposed Studies**

Consistent with 16 NYCRR § 1001.20, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and the NYAC's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (1994), the Applicant initiated consultation with the New York State OPRHP via the CRIS system on May 20, 2019, to develop the scope and methodology for cultural resources studies for the Project. The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 20 of the Application in accordance with 16 NYCRR § 1001.20:

- (a) A study of the impacts of the construction and operation of the Project, interconnections and related facilities on archaeological resources, including:
  - (1) Consultation with local historians, such as the Town of Byron Historical Society, the Town of Byron, including the Town Supervisor, and the Town of South Byron, to identify locally significant archaeological/cultural resources.
  - (2) A summary of the nature of the probable impact on any archaeological/cultural resources identified addressing how those impacts shall be avoided or minimized, to the maximum extent practicable;
  - (3) A Phase IA archaeological/cultural resources study for the Area of Potential Effect (APE) for the Project Area, as determined in consultation with OPRHP, including a description of the methodology used for such study;
  - (4) A Phase IB study, if required, as determined in consultation with OPRHP;

- (5) Phase II archaeological studies, in consultation with OPRHP and DPS, if warranted based on Phase I study results;
  - (6) A Phase III Data Recovery Plan, following completion of a Phase II archaeological study, if any identified archaeological site cannot be avoided through modification of Project design. The Phase III Data Recovery Plan will be prepared by the Applicant in consultation with the NYS OPRHP and submitted as part of the Compliance Filing. The Phase III Data Recovery would be conducted in advance of any ground-disturbing activities and would serve to mitigate impacts caused by Project development to any NRHP-eligible archaeological site(s).
  - (7) A complete list of all recovered artifacts; and
  - (8) An Unanticipated Discovery Plan that shall identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance are encountered during the excavation process. The Plan shall include a provision for work stoppage upon the discovery of possible archaeological or human remains. In addition, the Plan shall specify the degree to which the methodology used to assess any discoveries follows the most recent Standards for Cultural Resource Investigation and Curation of Archaeological Collections in New York State. Such an assessment, if warranted shall be conducted by a professional archaeologist, qualified according to the standards of the NYAC.
- (b) A study of the impacts of the construction and operation of the Project and the interconnections and related facilities on historic resources, including the results of field inspections and consultation with local historic preservation groups to identify sites or structures listed or eligible for listing on the State or NRHP within the viewshed of the Project and within the Study Area, including an analysis of potential impact on any standing structures which appear to be at least 50 years old and potentially eligible for listing in the State or NRHP, based on an assessment by a person qualified pursuant to federal regulation (36 C.F.R. 61).

- (1) The Applicant will consult with OPRHP and DPS to obtain input concerning appropriate criteria for Historic Architectural studies.
  - (2) Any cemeteries and other significant cultural features within the APE will be identified. Access to any cemeteries located within the Project Area will be discussed.
  - (3) Mitigation measures, such as local improvement projects, will be discussed should there be any unavoidable impacts to cultural resources. Audible or visual impacts, if any, will also be addressed.
- (c) Based on the Project's geographical location and guidance from the NYS OPRHP and the Indian Nations of New York State, the Applicant will initiate consultation with Native American Tribes. Based on the Project's geographical location and guidance from the NYS OPRHP and the Indian Nations of New York State, the Application will consult with the following Federally Recognized Tribe: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca, Tuscarora Nation of New York, Saint Regis Mohawk Tribe. The Tribal consultation procedures will include preparing correspondence to each Tribal Historic Preservation Office (THPO) that describes the Project's location and design. The Applicant will request comments from each THPO on any potential effects from the Project on Tribal resources or Tribal lands. Documentation of these consultations will be included in the Application and reflected in the Meeting Log.
- (d) Installation methods used for collection lines and potential impacts on cultural resources will be included in the Application.

### 3.21 Geology, Seismology, and Soils (Exhibit 21)

The Project will not result in significant impacts to geology, topography and soils. Only temporary, minor impacts to topography are expected as a result of construction activities. For example, where arrays and access road sites are not located on completely level terrain, some minor cut and fill or addition of fill may be required.

A preliminary investigation of the geology, seismology, and soils specific to the Project Area has been conducted via desktop review to provide an overview of the general conditions anticipated for the Project. Additionally, observations about localized geologic topographic conditions are based upon preliminary reconnaissance level field surveys that were conducted in 2019.

Exhibit 21 of the Application will include a study of the geology, seismology, and soils within the Project Area. Each study will consist of the identification and mapping of existing conditions, an impact analysis, and proposed impact avoidance and mitigation measures. Also, an evaluation of the constructability and suitability of equipment foundations will be addressed based upon site-specific conditions. Analysis of the site-specific conditions, engineering characteristics, anticipated impacts and proposed avoidance and mitigation measures will be provided in the Application. At this time, the Applicant anticipates that the solar array racking systems will be supported by posts driven into the ground and will not require foundations. Therefore, the only foundations proposed will be those necessary for the proposed collection substation and 345kV switchyard and potentially the energy storage cabinets.

A map delineating existing slopes (0 to 3 percent, 3 to 8 percent, 8 to 15 percent, 15 to 25 percent, 25 to 35 percent, and 35 percent and over) within the drainage area potentially impacted by the Project has been prepared using the USGS National Elevation Dataset (see Figure 7). Esri ArcGIS® Software will be used to identify drainage areas and develop detailed slope mapping for the Project Area. The Applicant will include potential receptor areas of stormwater runoff and an identification of sensitive environmental agricultural, and human health, and safety receptors for potential hazards associated with construction on slopes greater than 25 percent, if necessary.

The Application will include the proposed conceptual site plan, which will show existing and proposed contours at two-foot intervals, the solar array locations, energy storage facilities, access roads, laydown and staging areas, proposed collection substation, tap line, and 345kV switchyard.

The Applicant proposes to use two-foot contours constructed from publicly available DEM or site-specific topographic surveys as a basis for the calculation of earth disturbance calculations.

The Application will generally describe the typical scenarios that would result in cut and fill necessary to construct the Project, such as constructing an access road on a side slope, as applicable. Excelsior Energy Center will provide preliminary calculations of the quantities of cut and fill required to support the construction of all structures and access roads as part of the Project using the assembled two-foot contours. Separate approximations for topsoil, sub-soil, and rock will be provided. These summaries will be based upon publicly available datasets and compared to the preliminary site design.

The Application will include the preliminary estimates of fill, gravel, asphalt, and surface treatment materials that are anticipated to be required for solar arrays, access roads, staging areas, and other associated Project facilities. The Application will describe the anticipated amount and characteristics of fill materials expected to be imported to the Project Area, should any be required. No material is expected to be removed from the Project Area. General on-site locations for the storage of cut and fill material during the construction phase of the Project will be identified and provided in the Preliminary Design Drawings.

Construction of the Project will involve typical excavation techniques as would be used for similar work and access road clearing activities. The primary areas of ground disturbance will include the construction of access roads and buried collector cable routes. Commonly used excavation equipment such as backhoes and/or bulldozers are expected to perform much of the work. Collector cable embedment is likely to utilize a cable trencher, plow or blade where possible. A specific description of the processes determining excavation locations will be provided in the Application. Factors used to determine the use of excavation will include but are not limited to, soil corrosivity, depth to bedrock, bedrock competence, and other subsurface constraints. Minimal disturbance will be required for the solar array racking system as they will be supported on posts driven into the ground, therefore not requiring excavation.

The discussion of suitability for construction of buried cables included in the Application will consider the potential for dewatering, soil resistivity, and mechanical protection of the cables. It is anticipated that the contractor for this Project can excavate buried cable trenches with relatively

little difficulty using a rock saw, cable trencher, or plow. In the event that bedrock is encountered, it is anticipated to be rippable due to its content, and will thus be excavated using large excavators, rock rippers, or chipping hammers.

As the Project Area includes areas of active agricultural land, the Application will include a discussion of consistency, to the maximum extent practicable, with the New York State Department of Agriculture and Markets guidance document entitled *Guidelines for Agricultural Mitigation for Solar Energy Projects* (most recent version at time of Application filing). A discussion of methods for identifying drainage tile lines prior to construction, along with restoration of any tile lines impacted by Project construction activities, will be included.

Within the Project Area, there are three main geologic units present. These are the Camillus, Syracuse, and Vernon Formations, which are part of the Akron, Dolostone, and Salina Group (USGS, 1970). These units were formed in the upper Silurian and are comprised of predominately shale, dolostone, salt, and gypsum rock types. Most of the rock types are made up of soft fragments and do not pose any obstacle to excavation.

The Applicant will identify locations where trenchless excavation methods (e.g., HDD) may be proposed, if determined necessary. Specifically, the prospective use of HDD methods will be focused on navigating facilities around streams, wetlands and/or significant natural resources indicated by State and Federal agencies and when deemed pertinent to the Project. Specific locations will be determined utilizing appropriate siting methods including appropriate setbacks from water resources and investigations into local bedrock/sub-soil characteristics. Erosion control measures and inadvertent return plans utilized during the operation will also be provided.

The utilization of blasting techniques is not anticipated, so the Applicant intends to provide a general statement in the Application indicating that blasting is not likely to be required. This statement will reference the results and data obtained from a preliminary geotechnical investigation and indicate that a preliminary blasting plan need not be provided, an assessment of potential impacts is not required, and mitigation efforts as a result of blasting is not necessary. However, in the event that a unique situation is encountered and blasting is required, a blasting plan will be prepared and included in the Application. The plan will address all blasting operations and logistics necessary to mitigate risks associated with the operation such as safe transportation,

coordination with local safety officials, assessment of potential adverse impacts, and the evaluation of reasonable mitigation measures resulting from blasting impacts.

A desktop review of the USDA NRCS Web Soil Survey was used to collect soil data within the Project Area (see Figure 8). The USDA NRCS Web Soil Survey indicates that 13 of the soils found in the Project Area are soils of statewide importance for farmland. The USDA NRCS soil data is categorized by mapping unit, land area coverage of the Project Area (acreage), percent land coverage of the Project Area (percentage), slope, drainage class, hydrologic soil group (HSG), and farmland classification. The soils included below represent the soils which are the most commonly found within the Project Area. These soils are described in more detail below in order to provide a general understanding of the soils within the Project Area. The Soil Survey of Genesee County, New York indicates that the Project Area predominantly consists of silty loams, ranging from somewhat poorly drained to well-drained soils. In addition, the soils established on-site were classified by their farmland importance: “*Farmland of Statewide Importance*”, “*Prime Farmland if Drained*”, or “*Not Prime Farmland*.”

General descriptions of the primary USDA NRCS soils series found within the Project Area are provided below.

### **Soil Descriptions**

#### *Alden mucky silt loam (Ad) –*

This very poorly drained soil makes up approximately 0.8 percent of the Project Site. Alden and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Alden soils can be found in depressions with a parent material derived from a silty mantle of local deposition overlying loamy till. This map unit has a hydric rating of 100 percent.

#### *Appleton silt loam, 0 to 3 percent slopes (ApA) –*

This somewhat poorly drained soil makes up approximately 10.6 percent of the project site. Appleton and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Appleton soils can be found on till plains, drumlins, and ridges with. It is derived from a parent material of Calcareous loamy lodgment which is in turn derived from limestone, sandstone and shale. This map unit has a hydric rating of 4 percent.

*Appleton silt loam, 3 to 8 percent slopes (ApB) –*

This somewhat poorly drained soil makes up approximately 10.6 percent of the Project Site. Appleton and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Appleton soils can be found on till plains, drumlins, and ridges. They are derived from a parent material of Calcareous loamy lodgment which is in turn derived from limestone, sandstone and shale. This map unit has a hydric rating of 5 percent.

*Arkport very fine sandy loam, 1 to 6 percent slopes (ArB) –*

This well drained soil makes up approximately 0.7 percent of the Project Site. Arkport and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Arkport soils can be found on deltas and lake plains and are derived from a parent material of glaciofluvial or deltaic deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 0 percent.

*Aurora silt loam, 0 to 3 percent slopes (AuA) –*

This moderately well drained soil makes up approximately 1.1 percent of the Project Site. Aurora and similar soils make up 70 percent of the series with the remaining 30 percent being minor components. Aurora soils can be found on till plains, ridges and benches and are derived from loamy till parent material with is in turn mainly derived from calcareous shale with some limestone and sandstone. This map unit has a hydric rating of 0 percent.

*Aurora silt loam, 3 to 8 percent slopes (AuB) –*

This moderately well drained soil makes up approximately 0.8 percent of the Project Site. Aurora and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Aurora soils can be found on till plains, ridges and benches and are derived from loamy till parent material with is in turn mainly derived from calcareous shale with some limestone and sandstone. This map unit has a hydric rating of 0 percent.

*Canandaigua silt loam, 0 to 2 percent slopes (CaA) –*

This poorly drained soil makes up approximately 2.7 percent of the Project Site. Canandaigua and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Canandaigua soils can be found in depressions and are derived from parent



material consisting of silty and clayey glaciolacustrine deposits. This map unit has a hydric rating of 95 percent.

*Canandaigua mucky silt loam, 0 to 2 percent slopes (CbA) –*

This poorly drained soil makes up approximately 0.1 percent of the Project Site. Canandaigua and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Canandaigua soils can be found in depressions and are derived from parent material consisting of silty and clayey glaciolacustrine deposits. This map unit has a hydric rating of 95 percent.

*Cazenovia silt loam, 0 to 3 percent slopes (CeA) –*

This moderately well drained soil makes up approximately 0.1 percent of the Project Site. Cazenovia and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Cazenovia soils can be found in reworked lake plain and till plains and are derived from A loamy till parent material that contains limestone with admixture of reddish lake-laid clays or reddish clay shale. This map unit has a hydric rating of 0 percent.

*Cazenovia silt loam, 3 to 8 percent slopes (CeB) –*

This moderately well drained soil makes up approximately 5.1 percent of the Project Site. Cazenovia and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Cazenovia soils can be found in reworked lake plain and till plains and are derived from a loamy till parent material that contains limestone with admixture of reddish lake-laid clays or reddish clay shale. This map unit has a hydric rating of 0 percent.

*Cazenovia silt loam, 8 to 15 percent slopes (CeC) –*

This moderately well drained soil makes up approximately 0.5 percent of the Project Site. Cazenovia and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Cazenovia soils can be found in reworked lake plain and till plains and are derived from a loamy till parent material that contains limestone with admixture of reddish lake-laid clays or reddish clay shale. This map unit has a hydric rating of 0 percent.

*Cazenovia silty clay loam, 15 to 25 percent slopes, eroded (CgD3) –*

This moderately well drained soil makes up less than 0.1 percent of the Project Site. Cazenovia and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Cazenovia soils can be found in reworked lake plain and till plains and are derived from a loamy till parent material that contains limestone with admixture of reddish lake-laid clays or reddish clay shale. This map unit has a hydric rating of 0 percent.

*Collamer silt loam, 2 to 6 percent slopes (CIB) –*

This moderately well drained soil makes up approximately 3.1 percent of the Project Site. Collamer and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Collamer soils can be found in lake plains and are derived from a parent material composed of silty and clayey glaciolacustrine deposits. This map unit has a hydric rating of 0 percent.

*Dunkirk silt loam, 6 to 12 percent slopes (DuC) –*

This well drained soil makes up less than 0.1 percent of the Project Site. Dunkirk and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Dunkirk soils can be found on lake planes and are derived from a parent material composed of silty and clayey glaciolacustrine deposits. This map unit has a hydric rating of 0 percent.

*Fonda mucky silt loam (Fo) –*

This very poorly drained soil makes up approximately 0.1 percent of the Project Site. Fonda and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Fonda soils can be found in depressions and are derived from a parent material composed of clayey glaciolacustrine deposits. This map unit has a hydric rating of 100 percent.

*Fredon gravelly loam, 0 to 3 percent slopes (FpA) –*

This somewhat poorly drained soil makes up approximately 0.1 percent of the Project Site. Fredon and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Fredon soils can be found on terraces and valley trains and are derived from a parent material composed of Loamy over sandy and gravelly glaciofluvial deposits. This map unit has a hydric rating of 10 percent.

*Galen very fine sandy loam, 2 to 6 percent slopes (GnB) –*

This moderately well drained soil makes up approximately 0.8 percent of the project site. Galen and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Galen soils can be found in deltas and lake plains and are derived from a parent material composed of deltaic deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 0 percent.

*Gravel Pits (GP) –*

This unit does not have a drainage class listed, and it makes up less than 0.1 percent of the Project Site. Gravel pits make up 80 percent of the series with the remaining 20 percent being minor components. This map unit does not have typical location, parent material, or a hydric rating listed.

*Hilton Loam, 0 to 3 percent slopes (HIA) –*

This moderately well drained soil makes up approximately 4.9 percent of the Project Site. Hilton and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Hilton soils can be found in till plains, ridges, and drumlins and are derived from a parent material composed of calcareous loamy lodgment till which is in turn derived from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Hilton Loam, 3 to 8 percent slopes (HIB) –*

This moderately well drained soil makes up approximately 5.3 percent of the project site. Hilton and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Hilton soils can be found in till plains, ridges, and drumlins and are derived from a parent material composed of calcareous loamy lodgment till which is in turn derived from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Lakemont silty clay loam, 0 to 3 percent slopes (La) –*

This poorly drained soil makes up approximately 1.8 percent of the Project Site. Lakemont and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Lakemont soils can be found in depressions and are derived from a parent

material composed of red clayey glaciolacustrine deposits derived from calcareous shale. This map unit has a hydric rating of 95 percent.

*Lamson very fine sandy loam (Ld) –*

This poorly drained soil makes up approximately 1.3 percent of the Project Site. Lamson and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Lamson soils can be found in depressions and are derived from a parent material composed of deltaic or glaciolacustrine deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 90 percent.

*Lamson mucky very fine sandy loam (Le) –*

This very poorly drained soil makes up approximately 0.1 percent of the Project Site. Lamson and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Lamson soils can be found in depressions and are derived from a parent material composed of deltaic or glaciolacustrine deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 90 percent.

*Lima silt loam, 0 to 3 percent slopes (LmA) –*

This moderately well drained soil makes up approximately 4.7 percent of the Project Site. Lima and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Lima soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone and shale. This map unit has a hydric rating of 1 percent.

*Lima silt loam, 3 to 8 percent slopes (LmB) –*

This moderately well drained soil makes up approximately 12.8 percent of the Project Site. Lima and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Lima soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone and shale. This map unit has a hydric rating of 1 percent.

*Lyons soils, 0 to 3 percent slopes (LoA) –*

This poorly drained soil makes up approximately 0.9 percent of the Project Site. Lyons and similar soils make up 75 percent of the series, Lyons frequently ponded and similar soils make up 15 percent of the series, with the remaining 10 percent being minor components. Lyons soils can be found in drainageways and depressions and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone and shale. This map unit has a hydric rating of 95 percent.

*Madalin silty clay loam, 0 to 3 percent slopes (Ma) –*

This poorly drained soil makes up less than 0.1 percent of the Project Site. Madalin and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Madalin soils can be found in depressions and are derived from a parent material composed of brown clayey glaciolacustrine deposits derived from calcareous shale. This map unit has a hydric rating of 95 percent.

*Minoa very fine sandy loam, 0 to 2 percent slopes (MnA) –*

This somewhat poorly drained soil makes up approximately 0.3 percent of the Project Site. Minoa and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Minoa soils can be found in deltas on lake planes and are derived from a parent material composed of deltaic or glaciolacustrine deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 5 percent.

*Newstead silt loam, 0 to 3 percent slopes (NeA) –*

This somewhat poorly drained soil makes up approximately 0.3 percent of the Project Site. Newstead and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Newstead soils can be found in benches, till plains, and ridges and are derived from a parent material composed of loamy till which is in turn derived from sandstone, shale, and granite. This map unit has a hydric rating of 5 percent.

*Niagara silt loam, 0 to 2 percent slopes (NgA) –*

This somewhat poorly drained soil makes up approximately 2 percent of the Project Site. Niagara and similar soils make up 75 percent of the series with the remaining 25 percent being

minor components. Niagara soils can be found in lake deposits. This map unit has a hydric rating of 5 percent.

*Odessa silt loam, 0 to 3 percent slopes (OdA) –*

This somewhat poorly drained soil makes up approximately 0.4 percent of the Project Site. Odessa and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Odessa soils can be found in lake terraces and are derived from a parent material composed of red clayey glaciolacustrine deposits that are derived in turn from calcareous shale. This map unit has a hydric rating of 5 percent.

*Odessa loam, 3 to 8 percent slopes (OdB) –*

This somewhat poorly drained soil makes up approximately 1.1 percent of the Project Site. Odessa and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Odessa soils can be found in lake terraces and are derived from a parent material composed of red clayey glaciolacustrine deposits that are derived in turn from calcareous shale. This map unit has a hydric rating of 4 percent.

*Ontario Loam, 0 to 3 percent slopes (OnA) –*

This well drained soil makes up approximately 3.2 percent of the Project Site. Ontario and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Ontario soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Ontario loam, 3 to 8 percent slopes (OnB) –*

This well drained soil makes up approximately 11.8 percent of the Project Site. Ontario and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Ontario soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Ontario Loam, 8 to 15 percent slopes (OnC) –*

This well drained soil makes up approximately 0.7 percent of the Project Site. Ontario and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Ontario soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Ontario loam, 15 to 25 percent slopes (OnD) –*

This well drained soil makes up less than 0.1 percent of the Project Site. Ontario and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Ontario soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Ontario loam, 3 to 8 percent slopes, stony (OsB) –*

This well drained soil makes up approximately 0.8 percent of the Project Site. Ontario and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Ontario soils can be found in drumlins, ridges, and till plains and are derived from a parent material composed of Calcareous loamy lodgment till that is derived in turn from limestone, sandstone, and shale. This map unit has a hydric rating of 0 percent.

*Ovid silt loam, 0 to 3 percent slopes (OvA) –*

This somewhat poorly drained soil makes up approximately 6.2 percent of the Project Site. Ovid and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Ovid soils can be found in reworked lake plains and till plains and are derived from a parent material composed of loamy till with a significant component of reddish shale or reddish glaciolacustrine clays, mixed with limestone and some sandstone. This map unit has a hydric rating of 5 percent.

*Ovid silt loam, 3 to 8 percent slopes (OvB) –*

This somewhat poorly drained soil makes up approximately 9.6 percent of the Project Site. Ovid and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Ovid soils can be found in reworked lake plains and till plains and are

derived from a parent material composed of loamy till with a significant component of reddish shale or reddish glaciolacustrine clays, mixed with limestone and some sandstone. This map unit has a hydric rating of 5 percent.

*Palms muck (Pd) –*

This very poorly drained soil makes up approximately 0.2 percent of the Project Site. Palms drained and similar soils make up 65 percent of the series, Palms undrained and similar soils make up 15 percent of the series with the remaining 20 percent being minor components. Palms drained and Palms undrained soils can be found in swamps and marshes and are derived from a parent material composed of organic material over loamy glacial drift. This map unit has a hydric rating of 100 percent.

*Palmyra gravelly loam, 0 to 3 percent slopes (PhA) –*

This well drained soil makes up approximately 0.1 percent of the Project Site. Palmyra and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Palmyra soils can be found in deltas, terraces, and outwash plains, and are derived from a parent material composed of loamy over sandy and gravelly glaciofluvial deposits that are mainly derived in turn from limestone and other sedimentary rock. This map unit has a hydric rating of 0 percent.

*Palmyra gravelly loam, 3 to 8 percent slopes (PhB) –*

This well drained soil makes up approximately 0.6 percent of the Project Site. Palmyra and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Palmyra soils can be found in deltas, terraces, and outwash plains, and are derived from a parent material composed of loamy over sandy and gravelly glaciofluvial deposits that are mainly derived in turn from limestone and other sedimentary rock. This map unit has a hydric rating of 0 percent.

*Palmyra gravelly loam, 8 to 15 percent slopes (PhC) –*

This well drained soil makes up approximately 0.4 percent of the Project Site. Palmyra and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Palmyra soils can be found in deltas, terraces, and outwash plains, and are derived from a parent material composed of loamy over sandy and gravelly glaciofluvial



deposits that are mainly derived in turn from limestone and other sedimentary rock. This map unit has a hydric rating of 0 percent.

*Palmyra and Arkport soils, 15 to 25 percent slopes (PkD) –*

This well drained soil makes up less than 0.1 percent of the Project Site. Palmyra and similar soils make up 45 percent of the series, Arkport and similar soils make up 40 percent of the series, with the remaining 15 percent being minor components. Palmyra soils can be found in outwash plains, deltas, and terraces and are derived from a parent material composed of loamy over sandy and gravelly glaciofluvial deposits that are mainly derived in turn from limestone and other sedimentary rock. Arkport soils can be found in deltas on lake plains and are derived from a parent material composed of glaciofluvial or deltaic deposits with a high content of fine and very fine sand. This map unit has a hydric rating of 0 percent.

*Phelps Gravelly Loam, 0 to 3 percent slopes (PsA) –*

This moderately well drained soil makes up less than 0.1 percent of the Project Site. Phelps and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Phelps soils can be found in terraces and valley trains and are derived from a parent material composed of loamy glaciofluvial deposits over sandy and gravelly glaciofluvial deposits, containing significant amounts of limestone. This map unit has a hydric rating of 5 percent.

*Phelps Gravelly Loam, 3 to 8 percent slopes (PsB) –*

This moderately well drained soil makes up approximately 0.1 percent of the Project Site. Phelps and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Phelps soils can be found in terraces and valley trains and are derived from a parent material composed of loamy glaciofluvial deposits over sandy and gravelly glaciofluvial deposits, containing significant amounts of limestone. This map unit has a hydric rating of 0 percent.

*Romulus silt loam, 0 to 3 percent slopes (RsA) –*

This poorly drained soil makes up approximately 1.1 percent of the Project Site. Romulus and similar soils make up 75 percent of the series with the remaining 25 percent being minor components. Romulus soils can be found in depressions and are derived from a parent

material composed of loamy till which is derived in turn from reddish calcareous shale, limestone, and sandstone, in places intermixed with glaciolacustrine deposits. This map unit has a hydric rating of 85 percent.

*Schoharie silty clay loam, 6 to 12 percent slopes (ShC3) –*

This moderately well drained soil makes up less than 0.1 percent of the Project Site. Schoharie and similar soils make up 85 percent of the series with the remaining 15 percent being minor components. Schoharie soils can be found in lake terraces and are derived from a parent material composed of red clayey glaciolacustrine deposits derived from calcareous shale. This map unit has a hydric rating of 0 percent.

*Teel silt loam (Te) –*

This moderately well drained soil makes up approximately 0.2 percent of the Project Site. Teel and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Teel soils can be found in flood plains and are derived from a parent material composed of silty alluvium. This map unit has a hydric rating of 5 percent.

*Wakeville silt loam (Wk) –*

This somewhat poorly drained soil makes up approximately 1.5 percent of the Project Site. Wakeville and similar soils make up 70 percent of the series with the remaining 30 percent being minor components. Wakeville soils can be found in flood plains and are derived from a parent material composed of silty alluvium washed from areas of glacial drift which is in turn derived from shale, siltstone, and sandstone with some limestone. This map unit has a hydric rating of 10 percent.

*Wassaic silt loam, 2 to 8 percent slopes (WsB) –*

This well drained soil makes up approximately 0.5 percent of the Project Site. Wassaic and similar soils make up 80 percent of the series with the remaining 20 percent being minor components. Wassaic soils can be found in ridges, benches, and till plains and are derived from a parent material composed of loamy till which is in turn mainly derived from limestone with varying amounts of sandstone, shale, and crystalline rock. This map unit has a hydric rating of 0 percent.

*Wayland soils complex, 0 to 3 percent slopes, frequently flooded (Wy) –*

This poorly drained soil makes up approximately 0.2 percent of the Project Site. Wayland and similar soils make up 60 percent of the series, Wayland very poorly drained and similar soils make up 30 percent of the series, and the remaining 20 percent are minor components. Wayland and Wayland very poorly drained soils can be found in flood plains and are derived from a parent material composed of silty and clayey alluvium which are derived in turn from interbedded sedimentary rocks. This map unit has a hydric rating of 90 percent.

Maps, figures, and analyses will be prepared using information obtained from the USGS Online Spatial Geology Data, the USDA NRCS Web Soil Survey, and the preliminary geotechnical investigation conducted for the Project. These data sets will be used to discuss the suitability of the location for the Project in relation to variable soil types and conditions as well as addressing local bedrock characteristics. Analyses will include descriptions of soil structure, texture, and percentage of organic matter. Infiltration capacity and rate of recharge of the local soils will be discussed in order to address any proposed stormwater management measures and/or any dewatering operations which may be necessary during the construction of the Project. Studies will also include discussion on depth to bedrock and underlying bedrock types, including vertical profiles showing soils, bedrock, water table, and seasonal high groundwater. These characteristics will be depicted in relation to foundation depths for the collection substation and 345kV switchyard and potentially the energy storage cabinets, and any area to be disturbed for the construction of access roads, and all interconnections required to serve the Project.

The overall suitability of the soil conditions for construction will be analyzed based on the results of the preliminary geotechnical investigation. This investigation will include test borings at a subset of proposed solar array and substation locations and reviews of publicly available surface and subsurface soils, bedrock, and groundwater data.

The results of the preliminary geotechnical investigation will be presented in Exhibit 21 of the Application and will provide a description of regional geology, tectonic settings, seismology, and include any known areas of karst geology within or adjacent to the Project Area. It will also analyze and address any perceived impacts to the regional geology as a result of construction and operation of the Project. This report will also address the construction of Project facilities within or adjacent to steep slopes, as applicable, and define methodologies to avoid severe erosion

during extreme precipitation events and the sedimentation of water resources downstream. Data utilized in this report will be based on a Project-specific site visit conducted by a geotechnical expert and their review of publicly available data including the Surficial Geologic Map of New York, Geologic (Bedrock) Map of New York, Soil Survey of Genesee County, Geology of Genesee County, Aquifers of New York State, and Geology of New York among other resources, coupled with the analysis of the test borings to be completed at a subset of solar array/substation locations.

In addition to the preliminary geotechnical results, Exhibit 21 of the Application will include a preliminary engineering assessment on the foundation designs expected to be needed for the proposed collection substation and 345kV switchyard equipment and potentially the energy storage cabinets. A foundation evaluation will be undertaken to address the on-site geologic conditions for determination of the preferred specifications of proposed foundations.

The seismology of Genesee County was analyzed based on the New York 2014 Seismic Hazard Map (see Figure 9). Based on the mapping, Genesee County is located in an area with a 2% probability over 50 years of peak acceleration exceeding 10% to 14% of the force of gravity (USGS, 2014). This indicates relative low probability for seismic activity and bedrock shift in the vicinity of the Project Area.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 21 of the Application in accordance with 16 NYCRR § 1001.21. Exhibit 21 shall contain a study of the geology, seismology, and soils impacts of the Project consisting of the identification and mapping of existing conditions, an impact analysis, and proposed impact avoidance and mitigation measures, including:

- (a) A map delineating existing slopes (0-3%, 3-8%, 8-15%, 15-25%, 25-35%, 35% and over) on and within the drainage area potentially influenced by the Project Area and interconnections using the USGS National Elevation Dataset and Esri ArcGIS® software.

- (b) Information describing methods considered and proposed to avoid disturbance, erosion and/or sedimentation of steep slopes (i.e. slopes steeper than 3:1 (h:v), and/or greater than 15%), as applicable.
- (c) A proposed site plan showing existing and proposed contours at two-foot intervals, for the Project Area and interconnections, at a scale sufficient to show all proposed structures, paved and vegetative areas, and construction areas. No buildings are proposed.
- (d) Preliminary cut and fill calculations based on publicly available contour data. Separate calculations for topsoil, sub-soil and rock will be roughly approximated based on publicly available data from the Genesee County Soil Survey. Exhibit 22 will describe a plan to identify the potential presence of invasive species in spoil material and to prevent the introduction and/or spread of invasive species by the transport of fill material to or from the site of the facility or interconnections. Separate estimates for materials that may need to be imported to the Project Area for access road construction, structural base for foundations, and compacted fill for placement of buried electric lines will be provided as applicable.
- (e) A description and preliminary calculation of the amount of fill, gravel, asphalt, and surface treatment material to be brought into the Project Area. The Application will describe the anticipated amount and characteristics of all fill materials expected to be imported into the Project Area. For comparative context, the anticipated amount of fill materials imported will be presented in both cubic yards, and the equivalent number of truck loads.
- (f) No fill, gravel, asphalt, or surface treatment materials will be removed from the Project Area. The Application will confirm that existing soils are suitable for reuse as backfill with reference to the results of the Preliminary Geotechnical Investigations and existing soils mapping and data and will indicate why it is not necessary to remove material from the Project Area.

- (g) A description of construction methodologies and activities associated with the Project, including anticipated excavation techniques, based on site-specific Preliminary Geotechnical Investigations, and a preliminary identification of where each type of excavation will be employed. If HDD or other trenchless methods are anticipated, an inadvertent return plan will be included in the Application.
- (1) If horizontal directional drilling (HDD) is proposed for stream/wetland crossings, road crossings, or other locations, the Application will include:
  - (i) A description of HDD operations and locations
  - (ii) Maps identifying the proposed HDD locations
  - (iii) Identify stream/wetland crossing techniques, including a typical HDD equipment layout diagram
  - (iv) A HDD feasibility analysis and frac-out risk evaluation based on known and suspected soil and bedrock conditions.
- (h) A delineation of temporary cut or fill storage areas to be employed.
- (i) A description of the characteristics and suitability for construction purposes of the material excavated for the Project and of the deposits found at foundation level, including factors such as soil corrosivity, bedrock competence, and subsurface hydrologic characteristics.
- (j) Blasting is not anticipated as part of the Project and the Applicant intends to provide a general statement in the Application indicating such. If blasting is determined to be required, a preliminary blasting plan, including procedures and timeframes for notifying municipal officials and property owners (or persons residing at the location if different) within one-half miles radius of the blasting site of these activities, as well as an assessment of potential blasting impacts, and a blasting impact mitigation measures plan will be provided. The evaluation of reasonable mitigation measures regarding blasting impacts will include recommendations for setbacks from existing wells, including all identified water supply wells, livestock, residences, and other structures, and plans for pre- and post-blasting inspections of existing structures. In order to protect structures from damage, blasting shall be designed and controlled to meet the limits for ground

vibration set forth in United States Bureau of Mines (USBM) Report of Investigation 8507 Figure B-1 and air overpressure shall be under the limits set forth in the Conclusion section in the USBM Report of Investigation 8485 (USBM RI 8507 and USBM RI 8485).

- (k) An assessment of potential impacts of blasting to environmental features, above-ground structures and below-ground structures such as pipelines, wells, and drain tiles, if applicable.
- (l) An identification and evaluation of reasonable mitigation measures regarding blasting impacts, including the use of alternative technologies and/or location of structures, and including a plan for securing compensation for damages that may occur due to blasting, if applicable.
- (m) A description of the regional geology, tectonic setting and seismology of the Project Area.
  - (1) Information regarding the karst limestone and dolostone formation that trends east-west following the Onondaga Escarpment, and methods considered and employed to avoid disturbance of this resource.
  - (2) A site-specific karst conditions assessment that will provide the following: (i) identification of manner(s) in which construction activities will minimize excavations in karst-prone areas where excavations may facilitate subsurface erosion; (ii) risks and impacts to karst features and aquifers from directional drilling frac-outs and soil and bedrock displacement during excavations, boring operations, and pile driving will be addressed; (iii) although blasting is not anticipated, if blasting is proposed, a description of potential impacts to karst features from blasting operations.
- (n) An analysis of the expected impacts of construction and operation of the Project with respect to regional geology, if such can be determined.
- (o) An analysis of the impacts of typical seismic activity experienced in the Project Area based on current seismic hazards maps, on the location and operation of the Project

identifying potential receptors in the event of failure, and if the Project is proposed to be located near a young fault or a fault that has had displacement in Holocene time, demonstration of a suitable setback from such fault.

- (p) A map delineating soil types within the Project Area and the various USDA NRCS farmland classifications as identified on the most current publicly available mapping. The Applicant will consult with the local NRCS office to identify the location of any local farmland designations, which shall be delineated on the maps, if applicable.
- (q) A description of the characteristics and suitability for construction purposes of each soil type identified above, including a description of the soil structure, texture, percentage of organic matter, and recharge/infiltration capacity of each soil type and a discussion of any de-watering that may be necessary during construction and whether the Project shall contain any facilities below grade that would require continuous de-watering.
- (r) Maps, figures, and analyses delineating depth to bedrock and underlying bedrock types, including vertical profiles showing soils, bedrock, water table, seasonal high groundwater, and typical foundation depths on the Project Area, and any area to be disturbed for roadways to be constructed and all off-site interconnections required to serve the Project, including an evaluation for potential impacts due to Project construction and operation, including any on-site wastewater disposal system, based on information to be obtained from available published maps and scientific literature, review of technical studies conducted on and in the vicinity of the Facility, and on-site field observations, test pits and/or borings as available.
- (s) An evaluation to determine suitable proposed collection substation and 345kV switchyard foundations (and energy storage foundations if applicable), including:
  - (1) A preliminary engineering assessment to determine the types and locations of foundations to be employed. The assessment shall investigate the suitability of such foundation types as spread footings, caissons, or piles, including a statement that all such techniques conform to applicable building codes or industry standards.



- (2) If piles are to be used, a description and preliminary calculation of the number and length of piles to be driven, the daily and overall total number of hours of pile driving work to be undertaken to construct the Project, and an assessment of pile driving impacts surrounding properties and structures due to vibration.
- (3) Identification of mitigation measures regarding pile driving impacts, if applicable, including a plan for securing compensation for damages that may occur due to pile driving.
- (4) A description of methods for minimizing, to the maximum extent practicable, vibrational impacts on nearby infrastructure, along with a description and justification of any proposed pile-driving setback distances.
- (t) An evaluation of the vulnerability of the Project Area and the operation of the Project to an earthquake event. Because of the Project's distance from any large body of water, the Application will not address tsunami vulnerability.
- (u) As applicable, an evaluation of corrosion potential, including separate evaluations for the potential for corrosion of uncoated steel and the potential for corrosion and degradation of concrete.
- (v) A discussion of consistency, to the maximum extent practicable, with the New York State Department of Agriculture and Markets guidance document entitled *Guidelines for Agricultural Mitigation for Solar Energy Projects* (most recent version at time of Application filing).
- (w) As applicable, an evaluation of the risk of damage or displacement to foundations and underground cables from frost action and soil shrink/swell (if applicable based on the soils types within the Project Area). If existing soils are proposed for re-use as structural and/or compacted fill, the Application will assess the suitability of existing soils specifically for those purposes and describe screening measures to remove materials that do not meet the fill composition characteristics recommended by the Applicant's geotechnical expert.

### 3.22 Terrestrial Ecology and Wetlands (Exhibit 22)

Exhibit 22 of the Application will summarize the ecological communities within the Project Area as identified through a desktop resource review and on-site field surveys. Plant, wildlife, and sensitive terrestrial communities will be identified through desktop research and review, and reconnaissance-level field observations, including on-site wetland delineations. Preliminary on-site ecological surveys were conducted during the 2019 growing season. Species-specific surveys were conducted in the 2019 breeding bird season and will occur for the 2019-2020 winter raptor season. Work plans for these surveys incorporated comments NYSDEC provided for other NEER solar projects. Follow-up surveys may occur, if required, prior to the submittal of the Application. Based on a preliminary desktop review, the main terrestrial and wetland ecological communities currently mapped within the Project Area are summarized in the sections below.

#### **Regional**

The Project Area is within the Eastern Great Lakes Lowlands ecological region (ecoregion), as defined by Bryce et al. (2010). This ecoregion, which is assigned the map unit “83,” includes valleys and lowlands underlain by interbedded limestone, shale, and sandstone rocks that are more erodible than the more resistant rocks composing the adjacent mountainous areas. The topography and soils of the lowlands have also been shaped by glacial lakes and episodic glacial flooding. Limestone-derived soils are fine-textured, deep, and productive. As a result, much of the region was cleared for agriculture or urban development and fewer native forests remain than in surrounding ecoregions (Bryce et al., 2010).

More specifically, the Project Area is within the NYSDEC’s Ontario Lowlands ecoregion (map unit 83c). This ecoregion separates the Erie/Ontario Lake Plain (83a) to the north from the Northern Allegheny Plateau (map units 60f, and 60d) to the south. The Ontario Lowlands is underlain by limestone and calcareous shale that generally deep and finely textured. Ontario Lowlands soils are loamy, moist Alfisols derived from glacial till that support dairy and livestock farming, and suitable for growing fruit, vegetables, and other specialty crops. The Ontario Lowlands is defined by the extent of the Glacial Lake Iroquois and the region is greatly influenced by the proximity to Lake Ontario (Bryce et al., 2010).

Per the classification system developed by the USDA, the Project Area is within Major Land Resource Area (MLRA) 101 (Ontario-Erie Plain and Finger Lakes Region) of Land Resource

Region L (Lake States Fruit, Truck Crop, and Dairy region) (USDA-NRCS, 2006). This MLRA supports forest vegetation, particularly hardwoods. Typical forest types within this MLRA are elm-ash-red maple or beech-birch-sugar maple, in varying proportions. Other tree species associated with these forest types include basswood, hemlock, white pine, black cherry, and some species of upland oak (USDA NRCS, 2006).

### **Local**

Land cover in the Project Area was determined spatially using aerial orthoimagery interpretation and preliminary on-site ecological surveys. Based on these reviews, the vegetative cover type within the Project Area consists primarily of active agricultural land (89 percent), wetlands (5 percent ), and forestland (3 percent ), along with lesser amounts of open space developed land (2 percent ) and low intensity developed land (1 percent ). The Project Area's plant communities will be further described in the Application based on data collected during supplemental ecological resource surveys. Additionally, the Application will include a discussion of potential impacts on agricultural resources, including calculations and an assessment of the areal extent of temporary and permanent impacts, per 16 NYCRR § 1001.22(q). An evaluation of proposed agricultural restoration techniques due to temporary disturbance during construction in on-site laydown areas will be presented in the Application.

### **Wetland Mapping and Designated Functions and Values**

Wetland biologists will assess each wetland identified within the Project Area with respect to functions and values and include the assessment in the Application. Functions are self-sustaining properties of a wetland ecosystem that exist in the absence of society. Functions result from both living and non-living components of a specific wetland. These include all processes necessary for the self-maintenance of the wetland ecosystem such as primary production and nutrient cycling. Therefore, functions relate to the ecological significance of wetland properties without regard to subjective human values (USACE, 1999).

Values are benefits that derive from either one or more functions and the physical characteristics associated with a wetland. Most wetlands have corresponding societal value. The value of a particular wetland function, or combination thereof, is based on human judgment of the worth, merit, quality, or importance attributed to those functions (USACE, 1999). The assessment of wetland values will also be included in the Application.

The eight wetland functions typically assessed are:

- Groundwater Recharge/Discharge;
- Floodflow Alteration;
- Fish and Shellfish Habitat;
- Sediment/Toxicant/Pathogen Retention;
- Nutrient Removal/Retention/Transformation;
- Production Export (nutrient);
- Sediment/Shoreline Stabilization; and
- Wildlife Habitat.

The five wetland values typically assessed are:

- Recreation (consumptive and non-consumptive);
- Educational/Scientific Value;
- Uniqueness/Heritage;
- Visual Quality/Aesthetics; and
- Threatened or Endangered Species Habitat.

Per the United States Army Corps of Engineers (USACE), these are not necessarily the only wetland functions and values possible, nor are they so precisely defined as to be unalterable. Best professional judgment is used by wetland scientists to determine the functions and values that are assessed for each project, and the results of the assessment will be included in the Application.

### **Avoidance/Mitigation Measures**

The Project is being designed to avoid and/or minimize impacts to wetland and waterbody resources to the maximum extent practicable, and the Applicant will implement the following BMPs to further reduce the risk for impacts to water resources:

- Siting solar arrays, energy storage, access roads, collection substation, tap line and 345kV switchyard to avoid wetlands to the maximum extent practicable;

- Adherence to a practice of avoiding trenching or use of heavy equipment in waterbodies;
- Restoration of temporarily impacted wetlands and waterbodies to pre-construction conditions;
- Implementation of a SWPPP to minimize, to the maximum extent practicable, impacts to wetlands during construction; and
- Implementation of a spill prevention and response plan (SPCC) and utilizing a buffer system around wetlands.

The Application will discuss measures to be implemented during construction to avoid and/or mitigate impacts to the maximum extent practicable to wetland and waterbody resources.

## Wildlife

### Amphibians and Reptiles

Amphibian and reptile distribution information for the Project Area was accessed through the NYSDEC's "Amphibian and Reptile Atlas Project" (Herp Atlas Project) website. The Herp Atlas Project was a 10-year survey from 1990 to 1999 designed to document the distribution of the approximately 70 species of amphibians and reptiles found in New York State.<sup>1</sup> The standard "unit of measurement" used to map the distribution of amphibians and reptiles is the USGS 7.5-minute series quadrangle. The Project Area is located on the Byron Quadrangle, NY 7.5-minute series quadrangles, and based on the Herp Atlas Project distribution maps, the reptiles and amphibians documented on these quadrangles include Table 1 below:

**Table 1. Reptiles and Amphibians within Project Area**

| Scientific Name                            | Common Name                  | 7.5 Minute Quadrangle |
|--|------------------------------|-----------------------|
| <b>Amphibians</b>                          |                              |                       |
| <i>Ambystoma jeffersonianum x laterale</i> | Jefferson Salamander Complex | Byron                 |
| <i>Ambystoma laterale x jeffersonianum</i> | Blue-spotted Salamander      | Byron                 |
| <i>Desmognathus fuscus</i>                 | Northern Dusky Salamander    | Byron                 |
| <i>Desmognathus ochrophaeus</i>            | Allegheny dusky salamander   | Byron                 |
| <i>Plethodon c. cinereus</i>               | Northern red-back salamander | Byron                 |
| <i>Bufo a. americanus</i>                  | American toad                | Byron                 |
| <i>Hyla versicolor</i>                     | Gray treefrog                | Byron                 |

<sup>1</sup>The Herp Atlas Project is commencing a new 10-year survey in 2018.

**Table 1. Reptiles and Amphibians within Project Area**

| Scientific Name                    | Common Name            | 7.5 Minute Quadrangle |
|------------------------------------|------------------------|-----------------------|
| <i>Pseudacris crucifer</i>         | Northern Spring Peeper | Byron                 |
| <i>Lithobates (Rana) clamitans</i> | Green frog             | Byron                 |
| <i>Lithobates (Rana) sylvatica</i> | Wood frog              | Byron                 |
| <i>Lithobates (Rana) pipiens</i>   | Northern leopard frog  | Byron                 |
| <b>Reptiles</b>                    |                        |                       |
| <i>Chelydra s. serpentina</i>      | Common snapping turtle | Byron                 |
| <i>Clemmys guttata</i>             | Spotted Turtle         | Byron                 |
| <i>Chrysemys picta</i>             | Painted turtle         | Byron                 |
| <i>Nerodia s. sipedon</i>          | Northern water snake   | Byron                 |
| <i>Regina septemvittata</i>        | Queen Snake            | Byron                 |
| <i>Thamnophis sirtalis</i>         | Common garter snake    | Byron                 |
| <i>Thamnophis sauritus</i>         | Eastern Ribbon Snake   | Byron                 |
| <i>Opheodrys vernalis</i>          | Smooth Green Snake     | Byron                 |
| <i>Elaphe alleganiensis</i>        | Black Rat Snake        | Byron                 |
| <i>Sistrurus catenatus</i>         | Massasauga             | Byron                 |
| <i>Eumeces anthracinus</i>         | Northern Coal Skink    | Byron                 |

The Application will discuss potential direct and indirect impacts to reptiles and amphibians, including any potential mitigation and avoidance measures to be undertaken to avoid significant impacts to the maximum extent practicable.

#### Mammals

The Project Area plant habitats are typical of those that support mammals such as whitetail deer, coyote, red fox, gray fox, striped skunk, raccoon, Virginia opossum, eastern cottontail, woodchuck, eastern chipmunk, gray squirrel, red squirrel, and several species of bat, mouse, vole, shrew, and mole (Whitaker and Hamilton, 1998).

The Application will describe potential direct and indirect impacts to mammal species reasonably likely to occur on or in the vicinity of the Project Area, including any potential mitigation and avoidance measures that will be undertaken, as required or appropriate.

### Avian

The Project Area habitats are typical of those that support many common species of songbird, American crow, turkey vulture, red-tailed hawk, and American kestrel (NYSDEC, 2008). Farm ponds located within the Project Area may provide habitat for common waterfowl such as mallard.

The Application will include descriptions of potential direct and indirect impacts to avian species reasonably likely to occur on or in the vicinity of the Project Area, including any potential mitigation and avoidance measures that will be undertaken, as required or appropriate.

### **Natural Communities or Habitats of Special Concern**

An online review of the United States Fish and Wildlife Service (USFWS) Environmental Conservation Online System (ECOS), and the NYSDEC Environmental Resource Mapper (ERM), indicated that there are no known significant natural communities or habitats of special concern located within the Project Area. As such, the Applicant does not anticipate adverse impacts to any federal or state-listed significant natural community, habitat of special concern, U.S. National Wilderness Area, or USFWS Critical Wildlife Habitat.

### **Threatened and Endangered Species**

#### Federally Listed Threatened and Endangered Species

Initial contact has been made with the USFWS to discuss conservation measures and evaluate potential impacts to species identified within the Project Area. The USFWS Information for Planning and Conservation (IPaC) resource was used to determine the potential for federal listed threatened or endangered species, critical habitats, migratory birds or other natural resources in the vicinity of the Project Area (see Appendix E).

The USFWS IPaC Official Species List identified three species, the northern long-eared bat (*Myotis septentrionalis*); eastern massasauga (rattlesnake) (*Sistrurus catenatus*); and Houghton's Goldenrod (*Solidago houghtonii*), as potentially occurring within the Project Area vicinity. No critical habitats were identified within the Project Area.

The northern long-eared bat is listed as a threatened species at the State and Federal levels. The northern long-eared bat is a small bat, measuring an average of approximately three inches in total length. Adults weigh between five and eight grams.

During the spring and summer months, northern long-eared bats spend the day roosting in trees or artificial structures, switching to a new roost every other day on average. Roost trees are defined as any tree with over three inches diameter at breast height. More specifically, typical roost trees also contain cracks, crevices, or hollows that enable the bat to roost during the day. Most roost trees are either dead, desiccated, or contain deep furrows, hollows, or peeling bark to allow for effective roosting. In the fall, northern long-eared bats migrate to caves to hibernate over the winter months. This species typically hibernates together with much larger numbers of bats of other species, although hibernating groups of northern long-eared bats still number in the hundreds. Due to the spread of white-nose syndrome within hibernacula and this species' sharing hibernacula, northern long-eared bats (from hibernacula counts) have declined by up to 99 percent in the Northeast, causing it to be listed federally as a threatened species (USFWS, 2019a).

The eastern massasauga is listed as a threatened species at the Federal level and an endangered species at the State level. The eastern massasauga is a small snake with a thick body, heart-shaped head, and vertical pupils. The adult measures an average of approximately two feet in total length. Adults are gray or light brown with large, light-edged chocolate brown blotches on the back and smaller blotches on the sides with marbled dark gray or black on the belly, and a narrow white stripe on its head.

The eastern massasauga differs from other rattlesnakes because they hibernate alone. Habitat includes, but is not limited to, wet areas such as wet prairies, marshes, and low areas along rivers and lakes. They have also been found in adjacent upland areas. Woody plant overgrowth reduces the available habitat preferred by this snake (USFWS, 2019b).

Houghton's goldenrod is listed as a threatened species at the Federal level and an endangered species at the State level. This perennial plant has an upright stem with many small, bright yellow flower heads along a more or less flat-topped branched cluster that flower primarily in August and early September. The Houghton's goldenrod typically grows in interdunal wetlands on moist sandy beaches and shallow depressions between low sand ridges along the shoreline. It is native to Genesee County.



State Listed Threatened and Endangered Species

The NYSDEC's online ERM tool was accessed for information on State-listed protected species or significant natural communities in the Project Area vicinity. The results of the ERM review indicate there are some known occurrences of "Rare Plants and Rare Animals" and significant natural communities in the vicinity of the Project. Initial contact has been made with the New York Natural Heritage Program (NYNHP) and NYSDEC to discuss conservation measures and evaluate potential impacts to State-listed species potentially located within the Project Area.

The New York Natural Heritage Program database identified three species, the bald eagle (*Haliaeetus leucocephalus*), the rainbow mussel (*Villosa iris*), and the woodland agrimony (*Agrimonia rostellata*); and a high-quality occurrence of a rare community type, the northern white-cedar swamp, as potentially occurring within the Project Area vicinity.

The bald eagle is listed as a threatened species at the State level. The bald eagle is a national symbol of the United States and one of the most majestic birds in North America. Adult plumage develops between 4 and 5 years of age and is characterized by a white head and tail, brown body, light yellow eyes, and golden colored feet and beak (NHESP, 2016). The female bald eagle is typically larger than the male (NHESP, 2016). Bald eagles have been documented within 1 mile of the Project Site.

The rainbow mussel is listed as a rare species in New York State. These freshwater mussels have a brown, green or yellow outer shell and an iridescent inner shell, which gives the species its name (Government of Ontario, 2019). Rainbow mussels tend to live in rivers with a moderate to strong current and river bottom consistent of sand, gravel and rocks (Government of Ontario, 2019). The rainbow mussel has been observed within the Black Creek, Spring Creek, and Bigelow Creek. Portions of all three creeks occur within the Project Area.

The woodland agrimony is listed as a threatened species at the State level. This plant usually grows to be 2 to 3 feet tall and has thin and elongated leaves with large teeth (NYNHP, 2019). Each leaf can have 3 to 9 leaflets (NYNHP, 2019). This plant has been documented in moist silver maple woods that drain into the Black Creek.

The northern white-cedar swamp is a rare ecological community in New York State. This a mixed swamp community that occurs in poorly drained areas with organic soils (Historical Ecology of Onondaga Lake, 2019). This community type has been documented with 0.5 miles of the Project Site and has the potential to host rare or State-listed species. However, further information from on-site surveys would be required to assess the biological resources present at the Project Site.

### **Grassland Breeding Birds**

As the Project Area includes areas of grasslands, in Spring 2019, the Applicant developed a Grassland Breeding Bird Survey Site-Specific Work Plan to describe the approach for determining presence and site use by State-listed threatened/endangered and rare grassland bird species during the breeding season (see Appendix F). The Work Plan was submitted to NYSDEC for review, and input provided by NYSDEC was incorporated into the plan. Field surveys were conducted on a weekly basis from May 20 to July 20, 2019. The results of these surveys are currently being assessed and a final report summarizing the findings will be submitted to NYSDEC, subject to any required confidentiality protections, and will be included in the Application.

### **Winter Raptor Survey**

Additionally, as the Project Area includes areas of grasslands, the Applicant will develop a Winter Raptor Survey Site-Specific Work Plan to describe the approach for determining presence and site use by state-listed threatened/endangered and rare winter raptor species. Field surveys will be conducted weekly from November 15, 2019, through March 31, 2020. The results of these surveys will be assessed and a final report summarizing the findings will be submitted to NYSDEC, subject to any required confidentiality protections, and will be included in the Application as well as and assessment of any potential impacts to winter raptor species habitat as a result of the Project.

### **Invasive Species Management**

The Application will include a comprehensive list of the invasive plant species that were observed within the anticipated limits of disturbance during the field investigations. Invasive species are known to spread through vectors such as construction vehicles and equipment. In order to mitigate this potential, the Application will incorporate an Invasive Species Control Plan (ISCP),

which will include measures to educate workers, mitigate the risk of imported fill introducing invasive species, clean equipment effectively, develop site grading plans and erosion and sediment control plans designed to mitigate the chance of spreading invasive species, and also establish a monitoring regime for invasive species spread post-construction.

Currently, the Applicant does not plan to conduct large scale transportation of fill material to, from or within the Project Area. As such, the potential to spread invasive species by this mechanism is presumed to be negligible for this Project. If transported fill is deemed necessary, the Applicant will require all contractors to assure that all imported fill is free of invasive species prior to use. Furthermore, it is currently anticipated that fill will not need to be transported off the Project Area. Remnant stockpiled materials are planned to be spread as part of restoration.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 22 of the Application in accordance with 16 NYCRR § 1001.22:

- (a) An identification and description of the type of plant communities present in the Project Area, the interconnections, and adjacent properties, based upon field observations, desktop review of literature, and data collection, consistent with the nature of the site and access control to adjacent properties. This will be based upon field investigations and observations, desktop review of literature, and data collection, consistent with the nature of the site and access control to adjacent properties. The observation date for each species will be included as part of the plant community descriptions. The Application will also include maps and shapefiles depicting plant communities identified within the Project Area, electric interconnection lines, and adjacent properties (based upon roadside surveys).
- (1) The list will include specific information on, and a detailed description of, all communities found within parcels that will host facility components based on communities described in the Ecological Communities of New York State (Edinger et. al., 2014). For each community identified, Heritage Program Element Ranks will be provided.

- (2) Maps of the Project Area at a scale of 1:6,000 (1"=500'), based on aerial photography, and National Land Cover Data (NLCD) information showing approximate locations and extent of identified plant communities as classified according to Ecological Communities of New York State (Edinger et al., 2014).
  - (3) Maps at a scale of 1: 1,200 (1":100') showing approximate locations and extent of identified plant communities as classified according to Ecological Communities of New York State (Edinger et al., 2014) for Project Areas within 500 feet of disturbance. Plant communities for parcels outside the Project Area on which the Applicant does not have control will be determined as identified through the National Land Cover Database (NLCD), and observations made from publicly accessible roads, as feasible.
- (b) An analysis of the temporary and permanent impact of the construction and operation of the Project and the interconnections on the vegetation identified, including a mapped depiction of the vegetation areas showing the areas to be removed or disturbed, and including a plan to identify the presence of invasive species and to prevent the introduction and/or spread of invasive species.
- (1) Proposed temporary and permanent impacts to plant communities shall be calculated and discussed including:
    - i. A discussion of specific assumptions associated with approximate limit of vegetation clearing for each type of Facility component as identified in the Preliminary Design Drawings associated with Exhibit 11;
    - ii. A table listing area assumptions used to determine vegetation disturbance by component (e.g. solar panel installations, roads, collection lines, staging area, collection substation, switchyard and tap line);
    - iii. The number of acres of each habitat type impacted, calculated using GIS software, and presented in a summary impact table. Permanent impact calculations will include all tree clearing and other cover type conversion for construction and operation of the Project.

- iv. The plant community mapping will also depict vegetation cover types and any concentrations of invasive species in relation to proposed limits of vegetation disturbance, and associated GIS shapefiles of all areas of disturbance will be provided to NYSDEC and NYSDPS and to any intervening parties upon written request, subject to any confidentiality limitations.
- (2) An overview of vegetation management plans for operation and construction of the Facility, including a discussion of ground cover maintenance and forest clearing and ongoing vegetation maintenance required to prevent shading of solar panels.
- (c) An identification and evaluation of reasonable avoidance measures or, where impacts are unavoidable, mitigation measures, including use of alternative technologies, that will be implemented to avoid, minimize, and potentially mitigate, to the maximum extent practicable, for any temporary and permanent impacts to existing, non-invasive plant communities (particularly grasslands, interior forests, wetlands, shrublands, young successional forests), as a result of the construction and operation of the Project.
    - (1) A discussion of measures to be included to avoid and minimize impacts to vegetation such as co-locating linear Project components, and constructing all panels, buildings, storage areas, and other structures in areas already developed or disturbed, to the maximum extent practicable.
    - (2) A discussion of measures for post-construction vegetative restoration will be included such as reseeding disturbed areas with appropriate native seed mix or planting native woody species, as necessary, to recreate or enhance wildlife habitat and agricultural uses outside fenced areas.
    - (3) A summary impact table quantifying anticipated temporary and permanent impacts associated with the various facility components in relation to Project Area wildlife habitats, and vegetation cover types classified according to Ecological Communities of New York State (Edinger et al., 2014), particularly grasslands and interior forests, if affected.
- (d) A characterization of the Project Site and any areas to be disturbed for interconnections as to the vegetation, wildlife (including mammals, birds, amphibians, terrestrial

invertebrates, and reptiles) and wildlife habitats, that occur in, on, or in the vicinity based on reconnaissance or multi-season surveys and data collection appropriate to the nature of the site, supplemented by available data from the NYNHP, New York State (NYS) Amphibian and Reptile Atlas Project, the NYS Breeding Bird Atlas and range maps, Breeding Bird Survey Routes, Christmas Bird Counts and other similar reference sources, including time and date (i.e. day, month, and year) of observation, to the extent time and dates are available. This will also include an identification and depiction of any unusual habitats or significant natural communities that could support State or Federally listed endangered or threatened species or species of special concern. Note that wetlands are addressed separately in paragraphs (i) through (p). Characterization will include:

- (1) Assessments of suitable habitat within the Project Area, and an identification and depiction of any unusual habitats or significant natural communities that could support State or Federally listed endangered or threatened species or species of special concern.
- (2) For the specific surveys identified and where draft reports to be submitted to NYSDEC have been identified, the Applicant will provide said draft reports to the NYSDEC, as soon as possible, when finalized.
- (3) A discussion of the extent, methodology and results of all avian, bat, amphibian, and other wildlife surveys that have been and will be conducted within the Project Area and Study Area will be included, as applicable. Information on and a characterization of aquatic and terrestrial vegetation, wildlife and wildlife habitats that occur within the Project Area will be included, specifically an identification and description of plant communities, plant species and wildlife habitat. Such descriptions will include field identification and verification of aquatic habitats, plant communities, and other wildlife habitat that could potentially support federally or NYS-listed threatened and endangered (T&E) species, New York State species of special concern (SSC), and Species of Greatest Conservation Need (SGCN) as documented during on-site field investigations (e.g., ecological cover type assessments, habitat assessments, and wetland delineations). Habitat

identification will include the results of field studies, the Grassland Breeding Bird Survey, and Winter Raptor Survey. Coordination with USFWS, NYSDEC staff, and NHP database to document known occurrences of bat species in the Study Area, and relevant, applicable information regarding terrestrial vegetation, wildlife and wildlife habitats will be provided in the Application.

- (4) A discussion of the potential impacts of perimeter fencing of the Project on wildlife movements, and opportunities for minimizing adverse impacts, to the maximum extent practicable.
- (e) The Application will include an inventory of and information on plant species and wildlife species (mammals, birds, terrestrial invertebrates, amphibians, and reptiles (herpetofauna)) known or reasonably likely to occur within the Project Area and areas to be disturbed for interconnections at some time during the year based on site observations as well as existing data available from the following sources: NHP; NYSDEC; USFWS; local bird/wildlife experts; New York State Amphibian & Reptile Atlas Project (Herp Atlas); Breeding Bird Atlas (BBA); USGS Breeding Bird Surveys (BBS); Christmas Bird Counts (CBC); Hawk Migration Association of North America (HMANA); eBird; The Nature Conservancy surveys/reports; county-based hunting and trapping records maintained by NYSDEC, and supplemented by reasonably available public information, including those identified in paragraph (d) above, and/or not already listed in this paragraph. On-site field surveys (e.g. avian and bat surveys, amphibian/reptile surveys, ecological cover type assessments, habitat assessments, wetland delineations, etc.) and the availability of suitable habitat, as applicable, will also be used to identify species that could potentially occur within or in near the Project Area at some time during the year, as applicable. The inventory will specify whether species were observed, known to occur in the Project site, or are predicted to occur based on habitat characteristics and historical records. Information on terrestrial invertebrates should be limited to a general discussion regarding the range of species likely to occur near the Project.
- (f) A narrative analysis and associated mapping to explain and illustrate potential and expected construction, operation, post-construction restoration, and maintenance impacts of the Project and interconnections on vegetative cover types, wildlife (reptiles,

amphibians, mammal species, and avian species), wildlife habitats (including a discussion of impacts from functional loss and degradation of habitat, forest and grassland fragmentation, and wildlife displacement, as applicable), wildlife concentration areas, and wildlife travel corridors, if identified, and terrestrial and aquatic organisms. This will include a detailed assessment of direct and indirect impacts and identification and evaluation of the expected environmental impacts of the Project on SSC, SGCN, and T&E species protected by State and Federal law and the habitats of such species. Given the provisions of §3-0301(2)(r) of the Environmental Conservation Law and §15 of the Public Service Law, information that identifies the locations of habitats of such species or any other species or unique combination of species of flora or fauna where the destruction of such habitat or the removal of such species there from would impact their ability to survive, shall not be disclosed to the public and shall only be disclosed to the parties to a proceeding pursuant to an appropriate protective order. The Application will also include the following analyses:

- (1) Bat and Avian analyses, specifically Breeding Bird Surveys and Winter Raptor Surveys, were conducted. Grassland Breeding Bird Surveys (BBS) were conducted from May 20 to July 20, 2019 in accordance with a work plan reviewed by NYSDEC. The scope included property under the Applicant's control or visible from public roads as identified in the work plan submitted to NYSDEC. Draft reports for the BBS and winter raptor surveys will be provided to NYSDEC for review and comment. Final reports for both studies incorporating any comments provided by NYSDEC (if practicable, upon notice to NYSDEC as to the estimated filing date of the Application) will be provided in the Application and will include an assessment of any potential direct and indirect impacts to grassland bird species habitat as a result of the Project. In addition, a discussion and analysis of any bat and avian information relevant to the Project Site that is provided by NYSDEC or USFWS prior to the submission of the Application will be included (if practicable, upon notice to NYSDEC and USFWS as to the estimated filing date of the application).
- (2) USFWS, NYSDEC staff, and NHP database information will be used to determine if any bat hibernacula or maternity roosts are located within the Study Area. If hibernacula or roosts are identified within five miles from the Project Area or any



Project component or boundary, the location and distance to each identified hibernaculum and roost will be provided separately and confidentially to NYSDEC.

- (3) Information on amphibians and reptiles based on the New York State Amphibian & Reptile Atlas Project (Herp Atlas), database records obtained from NHP, NYSDEC and USFWS, assessments of suitable habitat within the Project Area, and any field observations made within the Project Area will be provided. To the extent that vernal pools and their functions (including the surrounding upland habitat) may be impacted by construction, operation or maintenance of the Project, those features will be identified under appropriate seasonal conditions, and these impacts will be identified and assessed in the Application. Such impacts may require, in consultation with NYSDEC and NYSDPS, the development and implementation of site-specific surveys for amphibian and reptile species under appropriate seasonal conditions to fully quantify the level of impact from the Project.
- (4) The Application will discuss potential construction-related direct and indirect impacts to wildlife (reptiles, amphibians, mammal species, and avian species) and wildlife habitat, including but not limited to incidental injury and mortality due to construction activity and vehicular movement, habitat disturbance and loss associated with vegetation clearing and earth-moving activities, and the displacement of wildlife from preferred habitat, likely to occur within the Project Area, including any potential mitigation and avoidance measures that will be undertaken. The NYSDEC Region 8 Wildlife Office will be contacted to obtain the most recent breeding, wintering, and habitat data for State-listed species, and the USFWS Field Office in Avon, New York will be contacted to obtain the most recent breeding, wintering, and habitat data for federally listed and protected species, and such information that is provided by NYSDEC or USFWS prior to the submission of the Application will be included (if practicable, upon notice to NYSDEC and USFWS as to the estimated filing date of the Application).
- (5) The Application will include a summary impact table that quantifies anticipated temporary and permanent impacts associated with all Project components in relation to wildlife habitats, identified concentration areas or travel corridors, and

vegetation cover types, particularly grasslands, interior forests and young successional forests, if affected.

- (6) In addition to site-specific field studies, a literature review of reasonably available public information will be utilized to assess impacts to wintering and breeding grassland bird species resulting from the construction, operation, post-construction restoration, and maintenance of the Project. Based upon the aforementioned literature review, the Application will include a discussion of the potential population-level effects habitat loss is likely to have on grassland bird species within the 2.0-mile Project Study Area and at a regional scale due to the proposed Project. All such analyses described in 22(f) will take into account the estimated impacts associated with the overhead transmission tap line and related facilities to be constructed, if applicable.
- (7) The assessment of herbicide application, if determined necessary, will consider the potential for short- and long-term impacts to plants, crops (human and livestock), grazing lands, animals (both livestock and wildlife), and habitats in the Project Area, as applicable, as well as trees, ground cover, and other vegetation planted as part of restoration, mitigation and habitat enhancement activities, as applicable.
- (8) The Application will discuss potential operational and maintenance-related direct and indirect impacts related to reptiles, amphibians, mammal species, and avian species likely to occur within the Project Area, including any documented wildlife corridors or concentrations areas.
- (9) A discussion of the potential impacts of the Project on wildlife species and the habitats that support them within the Study Area.
- (10) If it is determined that a “take” of a threatened and/or endangered species will be caused by the construction, operation, post-construction restoration, or maintenance of the Project within the meaning of 6 NYCRR Part 182, a full post-construction monitoring plan will be developed prior to the start of construction and submitted in the Compliance Filing for approval. The application will also include information associated with a proposed post-construction monitoring plan to be

implemented to assess direct and indirect impacts of the Project on wildlife species and their habitats. The details of a full post-construction monitoring plan will be developed on a site-specific basis through discussions between NYSDEC, the Applicant, and USFWS (if federally-listed species may be impacted), and at a minimum specify the following: the expected and allowed level of take of each T&E species that may be impacted; survey monitoring methods, effort, duration, data reporting and compliance documentation; construction parameters; proposed adaptive management responses, if applicable, and; mitigation measures sufficient to ensure the Application complies with the substantive requirements of 6 NYCRR Part 182. A full post-construction monitoring plan will be developed prior to the start of construction, approved by NYSDEC, and submitted in any required Compliance Filing.

- (11) A cumulative impact analysis will be done to evaluate the actual and expected impacts from the construction, operation and maintenance of the Project on federally and State-listed threatened or endangered species, particularly grassland birds, in combination with the impacts of proposed and operating utility-scale solar energy projects occupying grassland habitat within 100 miles of the Project Area based exclusively upon the NYSDEC database to be provided to the Applicant, and any publicly available information the Applicant, in its sole judgement, chooses to employ (the Study Projects) but not beyond New York State borders (Grassland Study Area). The Applicant is not required to perform other avian studies at the Study Projects and reserves its right to object to any requests for cumulative studies. This analysis will include, at a minimum:
  - (i) Examination of open and grassland habitat data on the Study Projects within the Grassland Study Area relying exclusively on the NYSDEC database to be provided to Applicant and any publicly available information Application chooses, in its sole judgement, to employ. The Applicant is not required to make Freedom of Information Act requests;
  - (ii) Estimated take of State-listed T&E bird species and their habitats at the Project, if any, and a description of methods used, and sources consulted to estimate take;

- (iii) Estimates of available open and grassland habitat within the Grassland Study Area relying exclusively on the NYSDEC database to be provided to the Applicant;
  - (iv) Estimates of acres of grassland breeding bird habitat lost directly through installation of panels and other project components at the Study Projects, using best available information or typical industry solar land use metrics;
  - (v) Estimates of acres of grassland habitat indirectly affected by the Study Projects due to functional loss/degradation of habitat; and
  - (vi) Cumulative impacts of grassland habitat use, particularly potential impacts on State-listed grassland bird species, within the Project Area.
- (g) An identification and evaluation of reasonable avoidance measures or, where impacts are unavoidable, measures to minimize, to the maximum extent practicable, impacts during siting, and development of the Project, including the use of alternative technologies, regarding impacts to vegetation, wildlife and wildlife habitat. The Project design, construction controls, and operational, post-construction restoration, and maintenance measures that can be reasonably implemented to first, avoid to the maximum extent practicable, then minimize, and mitigate for impacts to wildlife and wildlife habitat as a result of construction, operation, post-construction restoration, and maintenance of the Project will be described. If such impacts cannot be demonstrably avoided to the maximum extent practicable, a discussion of the minimization measures to be implemented for impacts associated with necessity of any mitigation measures will be discussed to address habitat loss, fragmentation, and displacement, and mortality and will include careful site design while adhering to designated construction limits and seasonal restrictions, and other BMPs. If any demonstrably unavoidable impacts are anticipated to listed T&E species or their habitats as a result of the Project, a commitment to mitigate in an appropriate and timely manner will be included. Such mitigation will be determined only after avoidance and minimization measures are evaluated and will result in a net conservation benefit to the target species.
- (h) Specific impacts to avian and bat species related to wind powered facilities is not applicable to this Project.

- (i) A map, at a scale of 1":100' or similar, showing delineated boundaries based on on-site identification of all Federal, State and locally regulated wetlands present on the Project Site and within 500 feet of areas to be disturbed by construction, including the interconnections, for land under control by the Applicant. The map will also include an estimation of the presence and extent of wetlands located greater than 500 feet from the areas to be disturbed, on land controlled by the Applicant, or are located within 500 feet of the limits of areas to be disturbed but are on parcels over which the Applicant does not have control. The estimations may be based on remote-sensing data, interpretation of published wetlands and soils mapping and aerial photography. This methodology is consistent with the United States Army Corps of Engineers (USACE) Wetland Delineation Manual (Environmental Laboratory, 1987), the appropriate Regional Supplement to the Corps of Engineers Wetland Delineation Manual, the New York State Freshwater Wetlands Delineation Manual (Browne et. al, 1995), and the recent DPS Staff interpretation dated May 31, 2018, concerning the delineation of all Federal, State and locally regulated wetlands present on the site and within 500 feet of areas to be disturbed by construction. Additionally:
- (1) All wetlands in the Project Area, including those within 50 meters of a NYSDEC-mapped wetland, regardless of size or connectivity, will be delineated and included in field mapping. Detailed location maps and ecological characterization data for all vernal pools located within 500 feet of related disturbances on all Project parcels will be included. Any part of the 500-foot survey area which falls outside of the Project parcels, without accessibility, will be estimated within 500 feet of the limits of disturbance;
- (2) Wetland estimation will only occur for areas located within 500 feet of areas to be disturbed by the Project and will be made using one or more of the following techniques: on-site observations, observations made from public roads and adjacent Project parcels, interpretation of aerial imagery, analysis of topography, existing databases of hydric soils, other remote-sensing data as available, and, wetland and soils mapping maintained by National Wetlands Inventory (NWI) and NYSDEC. Wetlands identified using one or more of the techniques described will be referred to as "predicted wetlands";

- (3) Wetland boundaries will be defined in the field by sequentially numbered pink surveyor's flagging marked "wetland delineation", the locations of which will be documented using GPS technology with reported sub-meter accuracy. Wetlands identified by these methods will be referred to as "delineated wetlands," and wetlands that are verified by the USACE and the NYSDEC will be referred to as "jurisdictional wetlands." On-site field delineations shall include boundary flagging of all 100-foot wetland adjacent areas where such flagging does not interfere with currently active agricultural practices. All remaining 100-foot wetland adjacent areas boundaries will be flagged prior to construction/ground disturbance when agricultural practices are no longer active;
- (4) Information indicating which delineated wetlands are likely NYSDEC regulated, including those that are part of wetland complexes that meet NYS-criteria for jurisdiction (i.e. 12.4 acres or larger, of unusual local importance and/or support listed species) whether currently mapped or not, will be included. All NYS-regulated wetlands will be identified by NYSDEC's wetland identification number in addition to the code assigned by the Applicant during delineation. The Applicant will coordinate with the NYSDEC and USACE, so the agencies may make final wetland jurisdictional determination of field verified, mapped, and unmapped wetlands. The Application shall include information concerning the jurisdictional status of wetlands that is provided by NYSDEC or USFWS prior to the submission of the Application (if practicable, upon notice to NYSDEC and USFWS as to the estimated filing date of the Application); and
- (5) The Applicant will provide NYSDEC and DPS with maps and shapefiles depicting the boundaries of all wetlands, jurisdictional wetlands, predicted wetlands, and all corresponding adjacent areas within the entire Project upon finalization. All wetland boundaries will be keyed to the submissions described in Exhibit 11 (Preliminary Design Drawings). The "predicted wetland" boundaries shown on site plans should be differentiated from field "delineated wetland" boundaries when displayed on maps, site plans, and shapefiles. Maps and shapefiles showing the boundaries of all delineated wetlands, jurisdictional wetlands, predicted wetlands, and all corresponding adjacent areas within the entire Project should also include

all Project components; proposed grade changes; the limits of ground disturbance and vegetative clearing.

- (j) A description of the characteristics of all Federal, State and locally regulated wetlands delineated as described above, including the Cowardin classification, and a description of the vegetation, soils, and hydrology data collected for each of wetland sites identified, based on actual on-site wetland observations. Copies of all wetland determination data forms, compiled into a Wetland and Stream Delineation Report, will be included in the Application.
- (k) A qualitative and descriptive wetland functional assessment, including seasonal variations, for all wetlands delineated above for groundwater recharge/discharge, floodflow alteration, fish and shellfish habitat, sediment/toxicant retention, nutrient removal, sediment/shoreline stabilization, wildlife habitat, recreation, uniqueness/heritage, visual quality/aesthetics, and protected species habitat.
- (1) Vernal pools will be inventoried. The Application will identify vernal pools that could be disturbed by construction operation of the Project. A discussion will be included that evaluates the use of the identified vernal pools by amphibians and the potential impacts to those species. Such evaluation of impacts may require, in consultation with NYSDEC and DPS, the development and implementation of site-specific surveys for amphibian and reptile species under appropriate seasonal conditions in order to fully quantify the level of impact from the Project.
- (l) An analysis of all wetlands outside of the Project Area that may be hydrologically or ecologically influenced by the development of the Project Area and the wetlands identified above, observed in the field where accessible to determine their general characteristics and relationship, if any, to wetlands delineated as above. A wetland and waterbody delineation report will be included as an attachment to the Application and will include an analysis of the potential hydrologic connectivity of all wetlands within the Project Area to adjacent offsite wetlands and will include a summary of those wetlands anticipated to fall under NYSDEC jurisdiction and USACE jurisdiction. Assessments of potential NYS wetlands jurisdiction will include both “mapped” and delineated wetlands that meet NYSDEC’s 12.4-acre size threshold (including any wetlands of any size

separated by less than 50 meters which function as a unit in providing wetland benefits, within the meaning of 6 NYCRR Part 664.3(b), or otherwise meet NYS criteria for jurisdiction over a wetland (see 6 NYCRR § 663.2(p)).

- (m) An identification of temporary and permanent impacts to wetlands (and any State-regulated 100-foot adjacent areas) based on the proposed footprint of all Project components and associated impact assumptions. A summary and table will be included in the Application to identify and quantify temporary and permanent impacts to, and any permanent conversions of wetlands and NYS-regulated 100-foot adjacent areas based on the proposed footprint of all Project components and associated impact assumptions. The table will also indicate permanent forest conversion, if any, caused as a result of the construction or maintenance of the Project. For each resource included in the temporary and permanent impact table, the following information will be included as determined applicable:

- (1) Wetland impacts will be presented in a table that will include:
  - (i) All State-regulated and jurisdictional wetlands, Federal wetlands, streams, and environmentally sensitive areas that could potentially be impacted by the proposed Project as depicted in preliminary design drawings or wetland delineations;
  - (ii) Applicant-assigned wetland identification code, NYSDEC wetland identification number, NYSDEC wetland classification, and NYSDEC stream classification;
  - (iii) Describe the type and acreage of impact including; permanent, temporary, fill, forest conversion, and including vegetative cover type affected by each impact.
  - (iv) The associated crossing methodology for each wetland, clearly discerning between federal and state wetland and 100-foot adjacent area impacts.
  - (v) Calculation of impacts to both wetlands and 100-foot adjacent areas of state regulated wetlands.
  - (vi) Include wetland delineation type (i.e., field survey, review of aerial imagery, roadside observation, etc.);



- (vii) For each resource explain if it could reasonably be avoided.
  - (viii) Propose site specific actions to minimize impacts to resources that are not bypassed, to the maximum extent practicable.
  - (ix) Identify the corresponding page number on preliminary design drawings depicting the resource, and on the mapping described below.
- (1) Impacts to wetlands will be presented on a separate set of site plan drawings at 1":100' scale (or similar), showing wetland and stream boundaries, permanent and temporary structures, stream crossings, roads, power interconnects, grade changes, and the limits of disturbance.
- (2) For each item identified in the table described in 22(m)(1) above, the following will also be provided, as applicable:
- (i) Explanation of whether the resource could reasonably be avoided;
  - (ii) Proposed site-specific actions to minimize impacts, to the maximum extent practicable, to resources that are not avoided;
  - (iii) Proposed site-specific actions to mitigate impacts that are not avoided to the maximum extent practicable; and
  - (iv) Proposed appropriate compliance monitoring schedule to ensure mitigation is successful, including adaptive management actions to be implemented should the planned mitigation fail.
- (n) An identification and evaluation of reasonable avoidance measures or, where impacts are unavoidable, mitigation measures to be employed to offset impacts to streams, wetlands, and 100-foot adjacent areas will be discussed, including the use of alternative stream and wetland crossing methods, alternative technologies, and control of potential phosphorus and nitrogen sources from the Project. The Application's discussion of avoidance and minimization will be updated, if necessary, upon final verification of wetland boundaries and jurisdictional determinations. Final impact calculations to the 100-foot adjacent area of NYS-regulated wetlands and associated mitigation will be based on verified delineation boundaries for jurisdictional wetlands. Where appropriate, mitigation shall include plans for compensatory mitigation. Such plans shall contain sections on grading, planting, and monitoring for success.

- (1) Where impacts to wetlands are unavoidable, and have been minimized to the maximum extent practicable, the anticipated mitigation measures to be implemented to offset impacts to wetlands and NYS-regulated 100-foot adjacent areas will be discussed, including the use of reasonable alternative stream and wetland crossing methods. A conceptual mitigation plan for impacts to NYS-regulated wetlands and adjacent areas will be included in the Application pursuant to 6 NYCRR § 663.5(g) and at a minimum, will meet the following provisions:
  - (i) The mitigation occurs on or in the immediate vicinity of the Project (preferably elsewhere in the same wetland);
  - (ii) The area affected by the proposed mitigation is regulated by the Freshwater Wetlands Act and 6 NYCRR Part 663 after mitigation measures are completed;
  - (iii) The mitigation provides substantially the same or more benefits than will be lost through the proposed activity; and
  - (iv) A final mitigation plan, as applicable, will be provided in the Compliance Filing after consultation with NYSDEC and USACE.
- (2) Off-site mitigation will only be considered if:
  - (i) The analysis being provided shows that all options within the immediate vicinity were thoroughly evaluated and determined to not be feasible;
  - (ii) A discussion of avoidance and minimization efforts considered is provided. This should indicate methods to be implemented to avoid wetland and stream impacts as well as address the methodology and a description of Project construction and operation, relating to the standards established by ECL Articles 15 and 24;
  - (iii) A statement and discussion regarding the Applicant's consideration of the following impact avoidance and minimization measures will be included in the Application: utilizing existing or narrow crossing locations wherever possible, alternative siting or routing options, trenchless crossings (such as HDD or other special crossing techniques), equipment restrictions, herbicide use restrictions, and erosion and sedimentation control measures; and

- (iv) The Application will describe the anticipated environmental compliance and monitoring programs to be implemented during Project construction, demonstrating adherence to all relevant permit conditions to protect wetlands, streams, and other waterbodies. The program will include an Environmental Monitor(s) during construction and restoration activities on the Project site, and a description of the Environmental Monitor's duties. The program will describe the locations of all staging areas, temporary spoil, or woody debris stockpiles, "extra work" areas, and other places material or equipment may be placed on-site. The limits of disturbance around all such areas will be clearly defined in plan maps, and physically marked in the field using orange construction fencing or other similar indicators. Plans to restore all temporary disturbances in regulated areas, including replanting trees in disturbed forested areas, will be provided. The final programs will be submitted in the Compliance Filing.
- (o) An identification of State and Federal endangered or threatened species, Species of Special Concern (SSC) or Species of Greatest Conservation Need (SGCN) within the Project Area or that could be subject to impacts from the Project construction, operation, or maintenance, including incidental takings, and an endangered or threatened species mitigation plan, if applicable. Additionally:
- (1) If impacts within the Project Area are unavoidable, a clear and reasoned explanation will be provided as to why complete avoidance of impacts to each affected species is not practicable, how the proposed minimization actions will minimize impacts to the maximum extent practicable, and proposed mitigation actions where impacts cannot be avoided or secondly minimized. If any such impacts cannot be demonstrably avoided to the maximum extent practicable, minimization actions and mitigation measures to be implemented will be developed in consultation with NYSDEC, DPS and USFWS (if federally listed species may be impacted) to result in a net conservation benefit to the target species, and thorough post-construction monitoring will take place to adequately measure the Project's direct and indirect impacts on the target species and evaluate the effectiveness of measures implemented as minimization actions;

- (2) Analysis and documentation of T&E species, SSC, and SGCN will be included based on database records obtained from the NYNHP, other known records documented by NYSDEC, USFWS, (if practicable, upon notice to USFWS as to the estimated filing date of the application) and observation during on-site wildlife and habitat, ecological, and wetland surveys. If it is determined a “take” of a listed T&E species is unavoidable, including the modification of habitat on which a listed T&E species depends, an avoidance, minimization, and mitigation plan that demonstrates a net conservation benefit to the affected species as defined pursuant to 6 NYCRR Part 182.11, along with the informational requirements of an Incidental Take Permit as provided for in 6 NYCRR Part 182.11, including proposed actions to first avoid all impacts to listed T&E species will be prepared. The Application will include a discussion and analysis of information collected as part of pre-construction monitoring surveys, identified previously, within the Project Area; and
- (3) A table of State-listed species, federally listed species, SSC, and SGCN, occurring or likely to occur within the Project Area will be included, with the following columns:
- (i) Species name;
  - (ii) Federal status;
  - (iii) NYS status;
  - (iv) SSC/SGCN listing;
  - (v) Habitat preference identified according to Ecological Communities of New York State (Edinger et al., 2014);
  - (vi) Identification of maps from 16 NYCRR § 1001.22(a)(3) that include habitat for each species;
  - (vii) Source of information indicating potential or documented presence of species;
  - (viii) Indication if species was observed onsite;
  - (ix) Discussion of the type of impact (direct and/or indirect) that may occur to each listed species;
  - (x) Estimated take of each listed species (if applicable); and

- (xi) Evaluation of all impact avoidance measures considered and, if full avoidance is not feasible, a discussion of why such actions are not practicable.
- (p) An ISMCP indicating the presence of invasive species and measures that will be implemented to minimize, to the maximum extent practicable, the introduction of new invasive species and spread of existing invasive species during soil disturbance, vegetation management, transport of materials, and landscaping/revegetation. The ISMCP will address species that were both identified in the invasive species concentration areas during the wetland delineation effort within the Project Area as well as those listed in 6 NYCRR Part 575. Management and control measures included in the ISMCP will vary depending on invasive species type identified during the aforementioned field efforts. The ISMCP will include:
  - (1) A list of all invasive plant species observed during field investigations and known to occur within the Project Area. The list of invasive plant species in areas of proposed disturbance shall be based on observations recorded concurrent with field surveys;
  - (2) For areas of high invasive species density and as useful for management of individual invasive species, identification of an area and concentration threshold that requires mapping and an individual management plan. GIS files of such concentration areas will be provided to NYSDEC;
  - (3) A list of invasive species other than plants included in 6 NYCRR § 575.3 and § 575.4 ([http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/islist.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf)), if any, limited to those incidentally observed during field work, including maps at a scale of 1:1,200 of any identified concentrations of non-native invasive species in areas of proposed disturbance. Additional invasive species not included on this list (e.g., wild parsnip, reed canary grass, etc.) may also warrant specific management and control measures, depending on current populations of such species within and nearby the Project Area; and

- (4) A final ISMCP shall be included in any required Compliance Filing or a filing with the Secretary, as applicable. Specifically, the plan will apply to all prohibited and regulated invasive species and include the following:
- (i) A summary of the survey methods to be used to identify and mark existing non-native invasive species within the Project Site (i.e. baseline survey), including the transmission line corridor (if applicable). A field verification of the location(s) of invasive species conducted during the growing season immediately prior (within at least six months) of the start of vegetation or ground disturbance activities;
  - (ii) An action plan for pre-construction management of non-native invasive species, including threshold for action. Specific methods to be used to ensure that packing material, imported fill and fill leaving the Project site will be free of non-native invasive species material, seeds, and parts to the extent practicable;
  - (iii) Specification on how fill materials to be placed within the Project Site will be free of non-native invasive species material, seeds, and parts, by source inspection or other method, or only used within areas already containing those specific non-native invasive plant and invertebrate species infestation;
  - (iv) Detailed description of specific measures that will be used to prevent the introduction, spread, and proliferation of all non-native invasive species due to the implementation of the Project's grading and ESCP;
  - (v) Details of procedures for preventing the spread of invasive invertebrates and diseases, and a discussion of how the Applicant will comply with the NYS quarantine and protective zones, where applicable;
  - (vi) Detailed plans describing how appropriate measures will be implemented to ensure that equipment and personnel arrive at and depart from the Project Site clean and free of all non-native invasive species material, seeds, and parts. The protocol for inspection of equipment arriving at the Project Site will be provided in the Application;
  - (vii) A detailed description of cleaning procedures for removing non-native invasive species material, seeds, and parts from equipment and personnel,

- and properly disposing of materials known to be or suspected of being infested;
  - (viii) Detailed description of the BMPs or procedures that will be implemented, and the education measures that will be used to educate workers;
  - (ix) Detailed description of a minimum of 5-year post-construction monitoring and corrective action plan, to achieve the goal of no new invasive species in the Project area and no new locations of existing invasive species in the Project area, and survey measures and procedures for revising the ISMCP in the event that the goals of the initial plan are not met within a specified timeframe;
  - (x) Anticipated methods and procedures used to treat non-native invasive species that have been introduced or spread as a result of the construction, operation, or maintenance of the Project (based on comparisons against the baseline survey); and
  - (xi) Landscape re-vegetation plans, including specification of native seed mix to be used, as appropriate.
- (q) An analysis of the temporary and permanent impacts of the construction and operation of the Project and interconnections on agricultural resources, including the current agricultural use of the Project Area, if any, including the acres of agricultural land temporarily impacted, the number of acres of agricultural land that may be considered permanently converted to nonagricultural use, and mitigation measures to minimize the impact to agricultural resources, to the maximum extent practicable. This analysis will include reference to the 2018 or latest edition of the NYSDAM's *Guidelines for Agricultural Mitigation for Solar Energy Projects*. If for any reason the guidelines cannot be met, the NYSDAM will be contacted to discuss applicable alternatives.

### 3.23 Aquatic Ecology and Water Resources (Exhibit 23)

Exhibit 23 of the Application will include a review of the Project Area's surface water resources, groundwater resources, and associated aquatic ecology. The review will involve a summary and mapping of existing conditions, an in-depth impact analysis of the Project, and will outline impact avoidance and mitigation measures to be undertaken by the Applicant.

#### **Groundwater**

A preliminary review of the Project Area indicates that the depth to the water table for 22 of the soils mapped in the Project Area by the NRCS ranges from 0 inches (surface) to 10 inches, 11 soils mapped had depth to water table ranges from 11 inches to 20 inches, 6 soils mapped had depth to water table ranges from 21 inches to 30 inches, and 13 soil mapped had a depth to water table values of 79 inches. Four of the soil map units have a depth to lithic bedrock of 20 to 40 inches, and the remainder of the map units are each listed as having a depth to a restrictive layer of greater than 80 inches (USDA NRCS, 2019).

Primary aquifers are defined by the USGS and the NYSDEC as *“highly productive aquifers presently utilized as sources of water supply by major municipal water supply systems”* (NYSDEC, 1990). Based upon preliminary review of agency mapping, the Project Area does not contain any portion of a primary aquifer. The closest primary aquifer is the Tonawanda Aquifer, the boundary of which is approximately 2.2 miles southwest of the Project Area, generating within the City of Batavia and the Village of Alexander in Genesee County and the Town of Attica in Wyoming County, New York (Terry et al., 1984).

Principal aquifers are defined as *“aquifers known to be highly productive or whose geology suggests abundant potential water supply, but which are not intensively used as sources of water supply by major municipal systems at the present time”* (NYSDEC, 1990). Based upon preliminary review of agency mapping, the Project Area does not contain any portion of a principal aquifer. The Project Area is completely encompassed within the Black Creek drainage basin. Two principal aquifers sit to the north and south of the boundaries of the Black Creek watershed and trend east to west (Autin, Noll, & Zollweg, 2003).

The Application will provide maps based upon publicly available information and the preliminary geotechnical investigation to depict depth to the water table, depth to bedrock, groundwater



aquifers, and groundwater recharge areas for the entire Project Area. Groundwater aquifer maps will also be prepared based upon publicly available information depicting groundwater flow direction, groundwater quality, groundwater well locations, and associated exclusion zones where information is readily available. These maps will be based on information gathered from the NYSDEC Division of Water Resources, Bureau of Water Management, USGS Office of Groundwater, the USDA NRCS Web Soil Survey, and information gathered through research and outreach from the Applicant.

To identify water wells within the Project Area, a Freedom of Information Law (FOIL) request letter will be sent to the Genesee County Health Department and the NYSDEC to request access to all publicly available water well information. The Application will include information received from the NYSDEC and Genesee County on water wells, including location, depth, yield, and use, if such data are available. Figure 11 provides preliminary identification of currently mapped water wells. Additionally, the Applicant will conduct a private well survey to further identify water wells within the vicinity of the Project. The survey will be distributed to all landowners within a 500-foot radius of the proposed Facility Area and within a 2,000-foot radius of proposed post installation (and blasting, if applicable) locations.

Excavations for foundations and access roads are expected to be relatively shallow and are not anticipated to intercept groundwater within the surrounding aquifers. The solar arrays will be set back from residences, and therefore the majority of earthwork activities are generally not planned to occur in close proximity to residential drinking water wells. Construction of the Project will adhere to a Spill Prevention Control and Countermeasure (SPCC) plan and a SWPPP to prevent significant adverse impacts such as contamination and/or erosion due to surface runoff.

The Project may result in small, sparsely distributed areas of impervious surface within the Project Area. The Application will provide an analysis to summarize potential impacts to public and private drinking water supplies, groundwater quality, and associated aquifers within one mile of the Project Area. The Application will include analyses to address anticipated temporary impacts arising from any necessary dewatering for construction activities.

Though none are anticipated, an analysis of any potential impacts to drinking water supplies due to construction or operations of the Project will be included in the Application including

characterization of the type, nature, and extent of service provided from the identified source. Additional detail regarding groundwater impacts will be supported in the Application with results from a preliminary geotechnical investigation. Specific avoidance and mitigation measures that will be implemented to protect groundwater resources during construction of the Project will also be provided.

### **Surface Water**

The Application will provide Project Area surface water maps compiled from NYSDEC, Esri, and Genesee County data, as well as data collected for all streams during ongoing site-specific wetland and waterbody delineation surveys.

The Project Area is located within the Black Creek drainage basin of New York (USGS Hydrologic Unit Code 0413000306), which is a sub-basin of the Lower Genesee River drainage basin (USGS Hydrologic Unit Code 04130003). According to the Black Creek Watershed Coalition, the Black Creek drainage basin covers an area of approximately 202 square miles (Autin, Noll, & Zollweg, 2003). The basin incorporates portions of Genesee, Monroe and Orleans Counties, and a small portion of Wyoming County (Autin, Noll, & Zollweg, 2003). The Genesee River basin is 2,500 square miles and drains to Lake Ontario (Autin, Noll, & Zollweg, 2003). The Black Creek watershed is primarily agriculture land with some residential and commercial land use (Autin, Noll, & Zollweg, 2003). Therefore, the watershed is impacted by various nonpoint source pollution from agricultural activities and municipal discharge (Autin, Noll, & Zollweg, 2003).

The NYSDEC classifies New York's streams as AA, A, B, C, and D. Classes AA or A are assigned to streams with the highest water quality. The best uses of class AA or A streams are: water supply for drinking; culinary or food processing purposes; primary and secondary contact recreation; and also fishing. Class B waters are suggested to only be used for primary and secondary contact recreation and fishing. The best usage of Class C waters is fishing and non-contact related activities. Class D waters represent the poorest water quality standard, and it is advised that recreational activities do not occur within this water class. Waters with classifications A, B, and C may also have a standard of (T), indicating that it may support a trout population, or (TS), indicating that it may support trout spawning.

All streams and small waterbodies located in the course of a stream with a classification of AA, A, or B, or with a classification of C with a standard of (T) or (TS) are collectively referred to as "protected streams." Special requirements also apply to sustain (T) and (TS) waters that support sensitive fisheries resources.

Streams or other bodies of water that appear as lines to indicate natural waters on the NYSDEC's reference maps, and which are not specifically classed by the NYSDEC, are assigned the same classes and standards of quality and purity as the specifically designated waters to which they are directly tributary. Additionally, all streams or other bodies of water that are not shown on the NYSDEC's reference maps are assigned to class D, as set forth in Part 701, *supra*, except that any continuous flowing natural stream that is not shown on the reference maps is assigned the same classification and standards as the waters to which they are directly tributary (6 CRR-NY 876.2). The Project Area drains into the Spring Creek, Bigalow Creek and the Upper Black Creek. The Spring Creek and Bigalow Creek are tributaries to the middle portion of the Black Creek. The sections of the Black Creek and Bigalow Creek into which the Project Area drains are listed by the NYSDEC as a Class C waterbody. The Portion of the Spring Creek into which the Project Area drains are considered to be Class C and C(T) waters.

A Wetland and Waterbody Report, which will be appended to the Application, will describe the characteristics of all delineated streams. The report will include a summary of each streams' flow regime, watershed association, National Wetlands Inventory (NWI) classification, physical characteristics (e.g. bed, banks, etc.), and assumed jurisdictional status. Figure 12 shows their mapped locations. All of the streams are part of the watershed identified as Hydrologic Unit Code (HUC) 0413000306. The design goal of the Project is to minimize, to the maximum extent practicable, impacts to wetlands.

The Application will describe the characteristics of all Project Area streams, including water quality, flow regime, and general aquatic ecology. Based upon a review of publicly available mapping, and initial on-site ecological surveys, there are multiple streams within the Project Area; including Class C and C(T) streams. The Application will incorporate information acquired from publicly available data sets and from any field data that documents NYSDEC-listed invasive species observations made during the on-site stream delineations. Preliminary siting of Project components will include measures to avoid and/or mitigate temporary or permanent impacts to

surfaces waters. Mitigation measures will include those commonly used and approved SPDES Stormwater Permits. Accordingly, a preliminary SWPPP will be included in the Application describing these avoidance/mitigation measures.

The Application will describe and quantify any anticipated direct or indirect stream impacts associated with the construction of the Project. Any surface water impacts are anticipated to occur primarily from access road and collection line crossings. The number and linear feet of stream impacts due to access road crossings will be minimized by routing around streams whenever practicable and utilizing existing crossings and narrow crossing locations to the extent practicable. Attempts, when feasible, will be made to upgrade existing crossings that are in disrepair or are undersized.

When the crossing of a surface water resource is deemed necessary for the Project, BMPs based on those previously adopted by the Siting Board will be employed. Proper briefing and signage will be provided to construction crews to dictate areas where equipment access is prohibited. Crossings of streams and wetlands will only occur along permitted access roads or through non-jurisdictional use of temporary matting.

Restrictions on activities within a predetermined buffer zone adjacent to delineated streams, wetlands, and other waters will include:

- No equipment refueling or washing;
- No storage of petroleum or chemical materials;
- No disposal of concrete or wash water;
- No amassing of construction debris or accumulation of slash materials in the area;
- No use of herbicides within the area; and
- No actions that may result in the degradation of stream banks or steep slopes above water resources.

A FOIL request for the location of all downstream surface drinking water intake sites within one mile of the Project Area will be sent to the Genesee County Health Department. These locations will be depicted in a figure set provided as an appendix to the Application. If no intake sites are listed in this search radius, the nearest intakes downstream of the Project will be described.

Information on the design, nature, and extent of services of each listed intake site will be provided within Exhibit 23 of the Application where readily available.

An erosion and sediment control plan (ESCP) will be prepared as part of the SWPPP and as required per the SPDES General Permit to limit the possibility of soil erosion and sedimentation within water resources throughout the Project Area. Silt fences, hay bales, siltation catch basins, check dams, and/or other standardized sedimentation control measures will be installed and maintained throughout the construction and operation phases of the Project until impacted areas become stabilized. To facilitate soil stabilization, exposed soils will be seeded and mulched in a timely manner to reduce the risk of sedimentation events arising from storm events. Control measures will be dictated in the Project SWPPP (see below). Their locations and design will be shown on appropriate construction drawings. As part of the SWPPP, a monitor will be in place throughout the work period and during the restoration period in order to inspect and assess sedimentation risk, and to mitigate any unforeseen issues specific to the nature of the Project Area.

### **Stormwater**

The Applicant will issue a Notice of Intent (NOI) for Stormwater Discharges from Construction Activity and will seek coverage under the SPDES General Permit prior to commencement of construction operations.

The Application will include a preliminary SWPPP as an appendix, prepared in accordance with the New York State SDESC and the New York State Stormwater Management Design Manual. The preliminary SWPPP will include:

- A Project introduction that will review the purpose, need, and appropriate contents of the complete SWPPP;
- Anticipated stormwater management practices, including erosion and sediment control measures;
- Anticipated construction activities, including a preliminary construction phasing schedule and definition of disturbance areas;
- Site waste management and spill control measures;

- Proposed site inspection and maintenance measures, including construction site inspection, and construction site record keeping; and
- Conditions that will allow for the termination of permit coverage.

As noted above, a preliminary SWPPP will be included in the Application. Preparation of the final SWPPP will require a level of detail that is not expected to be available until after the completion of the Application and final engineering. The SWPPP will be followed for management of stormwater discharge within the Project Area during the construction and restoration phases of the Project. The ESCP will be designed to satisfy compliance with the SPDES General Permit for the Project. The SWPPP will provide descriptions on temporary and permanent erosion and sedimentation control measures, phases of construction, disturbance limits, waste management, spill prevention, and site inspection and maintenance. Erosion and sedimentation control measures utilized during construction and operation of the Project shall, at a minimum, include the measures set forth in the SWPPP. The final SWPPP is intended to be submitted as part of any required Compliance Filing or with the Secretary.

Hydrologic models will be utilized by professional engineers in order to calculate stormwater discharges for the construction and operation phases of the Project. A pre-construction analysis of stormwater discharge from Project Area will be utilized in order to compare and contrast proposed conditions during the post-construction phase of the Project.

### **Chemical and Petroleum Bulk Storage**

A preliminary SPCC plan will be created to be implemented during the construction and operation of the Project to prevent the release of hazardous substances into the environment, especially near water resources. As mentioned previously, all refueling operations will be required to occur outside of the predetermined buffer area around wetlands and streams within the Project Area. All contractors will be required to have spill kits on hand to control any spills. This requirement and a list of the materials included in the kits will be explained in more detail within the SPCC plan and SWPPP provided to contractors. Spills will be reported in accordance with state and federal guidelines and the contractor will be required to adhere to both the SWPPP and SPCC Plan.

The Applicant does not anticipate on-site storage or disposal of large volumes of substances regulated under the chemical and petroleum bulk storage programs of New York State. The

Application will identify any petroleum or other hazardous chemicals that are necessary for construction and are proposed to be stored on-site and will explain how applicable laws and guidelines for storage and disposal of such substances will be followed.

### **Aquatic and Invasive Species**

Non-native invasive species have the potential to degrade aquatic environments. To minimize the impact on the environment, NYSDEC regulations address the possession, transport, importation, sale, purchase and introduction of select invasive species (6 NYCRR Part 575). These include select aquatic species (i.e., fish, aquatic invertebrates and aquatic vertebrates) as listed in Prohibited and Regulated Invasive Species, dated September 10, 2014. Aquatic and invasive species will be surveyed by a field ecologist and mapped within areas planned for disturbance by the Project facilities to support the development of an invasive species prevention and management plan. Observations of invasive species will be documented, and a comprehensive ISCP will be generated and used to mitigate the transport and spread of any observed aquatic invasive species. The ISCP will be included as an appendix in the Application.

The ISCP will evaluate reasonable avoidance/mitigation measures in order to reduce impacts, to the maximum extent practicable, to surface waters and any biological aquatic resources as well. The ISCP will involve predefined processes such as construction materials inspection, target species treatment and removal, construction equipment sanitation, and proper site restoration techniques.

### **Cooling Water**

This Project will not utilize cooling water during any phase of construction or operation of the Facility. As such, the requirements dictated in 16 NYCRR § 1001.23(f) are not applicable to this Project.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 23 of the Application in accordance with 16 NYCRR § 1001.23:

(a) Groundwater:

- (1) Hydrologic information reporting depths to high groundwater and bedrock, including a site map showing depth to high groundwater in increments appropriate for the Project Area.
- (2) A map based on publicly available information showing all areas within the Study Area delineating all groundwater aquifers and groundwater recharge areas, and identifying groundwater flow direction, groundwater quality, and the location, depth, yield and use of all public and private groundwater wells or other points of extraction of groundwater within a 500-foot radius of the proposed Project Area (and within a 2,000-foot radius of blasting locations and pile driving locations, as applicable) and including delineation of wellhead and aquifer protection zones. Well locations will be distinguished as “approximate” or “confirmed”.
  - a. To identify water wells within the Project Area, a Freedom of Information Law (FOIL) request letter, if necessary, will be sent to the Genesee County Public Health Department and NYSDEC to request access to all publicly available water well information. The Applicant will also submit, if necessary, a FOIL request letter to NYSDOH. Copies of the FOIL request letters, and any information gained thereof, will be included in the Application. Well construction details, usage patterns, and water quality data will be obtained to the extent that it is publicly available through these agencies. Because the utilization of blasting techniques is not anticipated for the Project, impacts to wells in the area are also not anticipated. As such if blasting is not proposed, the request to NYSDOH will be made for data of existing groundwater wells within 500 feet of the Project Area. There is no blasting anticipated for the Project, and excavations for foundations and access roads are expected to be relatively shallow and are not anticipated to intercept groundwater within the surrounding



aquifers. As such, the Applicant does not anticipate impacts to groundwater wells.

b. The Applicant will attempt to implement the following verification and maps:

- (i) Locations of public and private water wells will be verified through field observations where property access rights are obtained by the Applicant.
  - (ii) Maps showing water well locations will distinguish whether each well location is approximate or confirmed.
- (3) Based upon publicly available information, an analysis and evaluation of potential impacts (during normal and drought conditions) from the construction and/or operation of the Project on drinking water supplies, groundwater quality and quantity in the Project Area, including potential impacts on public and private water supplies, including private wells within a one-mile radius of the Project Area, and wellhead and aquifer protection zones.
- (4) The results of a private well survey distributed to all landowners within a 500-foot radius of the proposed Facility Area and within a 2,000-foot radius of proposed blasting and pile driving locations (if applicable). The water well survey materials will include a summary of the project, contact information and a description of where the well owner can get more information about the project (i.e. project website, document repositories, etc.), as well as an invitation to join the stakeholder list.

(b) Surface Water:

- (1) A map and identification of all surface waters, including perennial, intermittent and ephemeral streams, within the Study Area. Surface water maps will be based on data from NYSDEC, Esri, USGS, NWI, and stream data collected during on-site surveys of water resources. On-site survey data for surface waters will be

provided to NYSDEC and NYSDPS as shapefiles and in tabular format that can be cross-referenced to the maps.

- (2) A description of the New York State listed Water Classification and Standards, physical water quality parameters, flow, biological aquatic resource characteristics (including species, habitat, and presence of aquatic invasive species) and other characteristics of such surface waters, including intermittent streams, within the Study Area.
- (3) An identification of any downstream surface water drinking-water supply intakes within one mile, or if none within one mile, an identification of the nearest one (giving location of the intakes by longitude and latitude) that could potentially be affected by the Project or interconnections, including characterization of the type, nature, and extent of service provided from the identified source.
- (4) An analysis of the impact of the construction and operation of the Project and interconnections on such surface waters, including impacts, based upon publicly available information, to drinking water supplies, and an identification and evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures regarding impacts on such surface waters, including the precautions that will be taken to avoid or minimize dredging.
- (5) An identification and evaluation of reasonable avoidance measures, and where impacts are unavoidable, mitigation measures, including the use of water storage, stormwater reuse, and offsetting water conservation, regarding groundwater impacts.
- (6) A list and evaluation of reasonable avoidance, minimization, mitigation measures, and the potential alternatives to avoid impacts to wetlands and streams, including stream crossings, to the maximum extent practicable. Environmental impacts discussed and addressed will include, as applicable: thermal changes to waterbodies due to vegetative clearing, changes to in-stream structure and morphology, potential impacts to or taking of state-listed T&E, SSC and SGCN, and the effects of turbidity on nearby aquatic habitat.

- (7) All new stream crossings or upgrades of old crossings that may be necessary will be designed for a 100-year storm event. Culvert placement specifications will be described and enumerated, detail the expected flow calculations, and demonstrate culvert capacity with BMP considerations for culvert placement. The feasibility of using trenchless stream crossings will be assessed for all streams proposed to be crossed. BMPs will be utilized year-round for all stream crossings. Where impacts are deemed unavoidable, proposed measures to mitigate impacts to the maximum extent practicable will be discussed. If necessary, this discussion will be updated in any required Compliance Filing, or filed with the Secretary upon verification of wetland boundaries and any issued jurisdictional determinations, and final impact calculations will be based on any issued verified delineation boundaries for jurisdictional wetlands.

(c) Stormwater:

- (1) A preliminary SWPPP for the collection and management of stormwater discharges from the Project prepared in accordance with the applicable SPDES General Permit for Stormwater Discharges from Construction Activity (SPDES General Permit) and the most current version of the New York State SDESC.
- i. The hydrogeology of the Facility Area will be taken into consideration when preparing the SWPPP. The SWPPP will include a description of proposed measures of prevention of ecological impacts to these areas to the maximum extent practicable, and pre- and post-development hydrologic modeling and water quality calculations.
  - ii. An evaluation of potential impacts of stormwater runoff on both agricultural uses and drainage patterns within and adjacent to the Project Area. The Application will also address the preliminary design of stormwater controls, and draining features used during site restoration, in light of avoiding post-construction negative impacts on the mentioned resources.
  - iii. Proposed best management practices will be documented in the SWPPP to be included in the Application.

- iv. The Maryland “Stormwater Design Guidance – Solar Panel Installations” will be considered as part of SWPPP development and a discussion will be included to identify how the criteria outlined in the design guidance are met.
- (2) To the extent not covered in paragraph (1) above, a preliminary plan, prepared in accordance with the most current version of the New York State SDESC, that identifies the post-construction erosion and sediment practices that will be used to manage stormwater runoff from the developed Project Area. This can include runoff reduction/green infrastructure practices, water quality treatment practices, and practices that control the volume and rate of runoff. Proposed vegetation species that may be used will be listed, and the use of native species and pollinators will be considered.
  - (3) The final SWPPP will include an erosion and sediment control plan as required per the SPDES General Permit to limit the possibility of offsite impacts, and to minimize, to the maximum extent practicable, soil erosion and sedimentation within water resources throughout the Project Area and will be provided as part of any required Compliance Filing or filed with the Secretary.
  - (4) To the extent not covered in paragraph (1) above, a preliminary plan, prepared in accordance with the most current version of the New York State SDESC that identifies the post-construction erosion and sediment practices that will be used to manage stormwater runoff from the developed Project Area. This can include runoff reduction/green infrastructure practices, water quality treatment practices, and practices that control the volume and rate of runoff.
- (d) Chemical and Petroleum Bulk Storage:
- (1) The Applicant does not currently anticipate the on-site storage or disposal of large volumes of substances regulated under the chemical and petroleum bulk storage programs of New York State. If construction operations require petroleum or other hazardous chemicals to be stored on-site, a description of the spill prevention and control measures to be in place for chemical storage, including an evaluation of alternatives and mitigation measures, will be included in the Application.

- (2) The Applicant does not anticipate the on-site storage of ammonia, fuel oil, wastewater, other chemicals, petroleum or other hazardous substances, or solid waste. However, if construction requires the storage of any of these hazardous chemicals regulated under the State of New York's chemical and petroleum bulk storage program, a demonstration of compliance with such regulation shall be provided in the Application.
  - (3) The Applicant does not currently anticipate the on-site storage or disposal of large volumes of substances regulated under the chemical and petroleum bulk storage programs of any local laws. If construction operations require petroleum or other hazardous chemicals to be stored on-site, those substances will be identified within the Article 10 Application and all applicable laws and guidelines will be followed.
- (e) Aquatic Species and Invasive Species:
- (1) An analysis of the impact of the construction and operation of the Project on biological aquatic resources, including species listed as endangered, threatened, or species of special concern in 6 NYCRR Part 182, and including the potential for introducing and/or spreading invasive species.
  - (2) An identification and evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures regarding impacts on such biological aquatic resources, including species and invasive species impacts (if any) and in compliance with applicable water quality standards (6 NYCRR Part 703).
- (f) This Project will not utilize cooling water during any phase of construction or operation and, therefore, cooling water withdrawals will not be addressed in the Application.

### 3.24 Visual Impacts (Exhibit 24)

A visual impact assessment (VIA) will be prepared for the Project and included in the Article 10 Application. The VIA will determine the extent and significance of the Project's visibility and will be performed according to the requirements as outlined in 16 NYCRR § 1001.24.

#### **Character and Quality of the Existing Landscape**

Prior to any investigation for visual analysis, a Visual Study Area (VSA) must be defined. Because of the typical height of solar panels, an initial focus of 2 to 5 miles is proposed for a VSA. While 2 miles may be adequate due to the low height of the solar panels, because of rolling topography and the potential for higher elevation views of the Project, areas between 2 and 5 miles will also be explored. During the pre-application phase, and once a solar array layout has been determined, the Applicant will prepare a preliminary viewshed analysis for the purpose of defining the appropriate VSA and APE for Historic Architectural Studies. This preliminary viewshed analysis will be distributed to involved parties (as discussed in Proposed Study 24(b)(5) below). The VSA will primarily include Genesee and Orleans Counties with two small areas of Monroe County in the northeast segment near the five-mile VSA boundary.

The definition of the VSA is currently proposed to be five miles around the property boundaries of the Project Area and not around the general perimeter outline of the solar array themselves. Distance Zones will be assigned within the VSA as required by Article 10. Currently, Distance Zones of 0.5 miles, 2 miles, and 5 miles are proposed. The towns within the VSA include:

- *Towns Within One Half Mile Distance Zone:* Bergen, Byron, Elba, LeRoy, and Stafford
- *Towns within Two Mile Distance Zone:* Batavia, Bergen, Byron, Elba, LeRoy, and Stafford.
- *Towns between Two and Five Mile Distance Zone:* Batavia, Bergen, Byron, Elba, LeRoy, and Stafford; City of Batavia; Villages of Bergen, Elba, and LeRoy; Towns of Barre and Clarendon, in Orleans County; and Town of Sweden in Monroe County.

Existing conditions and character of the landscape will be evaluated through the acquisition of GIS data, review of town and county reports, topographic data, and site visits along with photographic documentation. As part of evaluating existing conditions, Landscape Similarity Zones (LSZ) will also be defined. LSZs are areas of similar landscape/aesthetic character based on patterns of landform, vegetation, water resources, land use, and user activity, and are helpful

in providing a framework for assessment and understanding the visual environment. Based on reconnaissance level investigations of the vicinity, the landscape in the Town of Byron is described as gently sloping with a few areas of moderate slope (Byron, 2018). Town of Byron land use is primarily a rural mix of farmland consisting of cultivated crops and hay-pasture land with small intermittent and isolated forest groups, many of which serve as vegetated riparian zones for local streams. The City of Batavia, located approximately three miles to the southwest of the Project Area, has low to medium intensity urban development. Dense rural forested areas become more predominant trending north easterly between the two and five-mile Distance Zone in Bergen.

A visual resources inventory as generally stated in 16 NYCRR § 1001.24(b)(4)(ii) will be performed to determine the existing publicly accessible sensitive receptors that may be susceptible to visual impacts. A final assessment of resources will be provided in the Application.

### **Visibility of the Facility**

To determine visibility of the Project, a GIS-based viewshed analysis will be performed and prepared by using ESRI ArcGIS Spatial Analyst software and will include vegetated tree groups and/or buildings to realistically depict the surrounding landscape. This analysis is a GIS analytical technique that determines if and where an object can geographically be seen within a larger regional area and is primarily based on elevation data. The results of the viewshed analysis are combined with the visual resources inventory locations to predictively identify those resource areas that may potentially see all or some portion of the Project.

Photographic simulations will also be prepared to assess the quality of view from select viewpoint locations. Photographs to be used in simulations will be acquired during site visits. Several candidate locations for simulations will be chosen resulting from a number of preliminary investigations, with the assistance of the visual resources inventory in combination with the predicted visibility of the viewshed analysis and on-the-ground site visits. The Applicant will consult with DPS Staff and other stakeholders for their input on the selection of additional viewpoints for simulations per 16 NYCRR § 1001.24 (b)(4) and (b)(4)(v).

### **Visibility of Above-ground Structures and Interconnections**

A proposed collection substation and, adjacent thereto, an on-site 345kV switchyard tap line are proposed to be built by the Applicant. Potential visibility of the aboveground facilities may be assessed either by viewshed analysis, line of sight analysis, or photosimulations.

### **Appearance of the Facility upon Completion**

Photosimulations will be prepared from selected vantage points in order to represent the appearance of the Project upon completion. A 3D model of the Project will be created according to engineering specifications to be used in visualization software. High resolution photography will be obtained as part of site visits to use in the simulations.

### **Photographic Overlays**

To create the simulations, Autodesk 3DS MAX visualization software will be used to correctly dimension a model of the Project into the digital photographic image from each viewpoint location. For a given vantage point, the visualization software is capable of providing and adjusting a camera view that matches that of the actual photograph. From the field effort, the documented camera coordinate (x,y,z) positions will be entered into the model using a sub-meter global positioning unit (GPS). A full frame digital camera with a fixed 50 mm focal length lens or a digital SLR with crop factor adjusted for 35 mm focal length equivalents will be used for obtaining photographs. A focal length of 50 mm will generally be used as it most closely resembles human vision. There may be some circumstances where wider angle focal length might be used for panoramic views. Reference locations, which are existing visible objects in the photograph such as light posts, building corners, trees, gate posts or utility poles will be obtained as part of the field task to assist with refined placement of the proposed Project within the photograph. High point references will be measured with a digital rangefinder.

### **Nature and Degree of Visual Change**

The character of the VSA is primarily a rural mix of farmland consisting of cultivated crops and hay-pasture land with small intermittent and isolated forest groups, many of which serve as vegetated riparian zones for local streams. Torpy Hill is northeast and Temperance Hill is southwest between two and five miles.



Existing visual and landscape characteristics of the Project will be described in the Application. Predicted visibility in the landscape from the Project will be provided by viewshed analyses and areas of visibility in relation to visual resources will be discussed. Descriptions of how land characteristics, including tree cover or topography might preclude views, will be described as well. Simulations will be made from vantage points from public areas with the most open views to the Project as possible. To assess visual change of the Project as per 16 NYCRR § 1001.24(b)(7), a simulation set of existing conditions against Project conditions will be compared and rated. Documentation of the steps followed in the rating and assessment methodology will be provided including results and summary discussion of rating impacts and a description of the qualifications of the individuals serving on the rating panel. There is no standard rating form that is required by DPS. TRC has developed a visual impact rating form for use in comparing Project photosimulations for efficient and streamlined use with projects that undergo state environmental permitting processes. The form is a simplified version of various Federal agency visual impact rating systems, including concepts and applications sourced from:

- U.S. Bureau of Land Management (BLM), Handbook H-8431: Visual Contrast Rating, January 1986 (USDOI, 1986);
- Visual Resources Assessment Procedure for USACE, March 1988 (Smardon, et al., 1988);
- NPS Visual Resources Inventory View Importance Rating Guide, 2016 (NPS, 2016);
- USDA Forest Service (USFS), United States Department of Agriculture Forest Service, Landscape Aesthetics: A Handbook for Scenery Management, USDA Forest Service Agriculture Handbook No. 701, 1995 (USDA, 1995).

### **Related Operational Effects of Facility**

The Application will contain an analysis and description of potential glare related effects during operation of the Project. Photovoltaic panels are constructed with non-reflective coatings and/or glass. These panels are designed specifically to absorb as much sunlight as possible in order to maximize electrical generation, rather than reflect sunlight. Further, the metal supports that form the racking system are typically constructed using galvanized steel or aluminum and therefore will not reflect sunlight.

### **Measures to Mitigate for Visual Impacts**

As discussed above, the most effective means of mitigating visual impacts is through optimal siting, adequate setbacks, and design of Project components. Discussion of general mitigation strategies such as design, appearance, siting, avoidance, and layout will be discussed in the Application as well as any landscaping proposed for screening.

### **Description of Visual Resources to be Affected**

Local, state, and federal visual resources will be investigated per 16 NYCRR § 1001.24(b)(4)(ii). These are areas such as landmark landscapes; wild, scenic or recreational rivers administered respectively by either the NYSDEC or Department of Interior pursuant to 16 USC § 1271; forest preserve lands, conservation easement lands, scenic byways designated by the federal or state governments; Scenic Districts and scenic roads, designated by the Commissioner of Environmental Conservation pursuant to ECL Article 49 scenic districts; Scenic Areas of Statewide Significance; state parks or historic sites; sites listed on National or State Registers of Historic Places; areas covered by scenic easements, public parks or recreation areas; locally designated historic or scenic districts and scenic overlooks; and high-use public areas. Viewer groups and viewer exposure including residential areas and high-volume travel corridors will also be described.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 24 of the Application in accordance with 16 NYCRR § 1001.24:

- (a) The Application will include a VIA to determine the extent and assess the significance of Project visibility within a 2-5 mile Visual Study Area. The components of the VIA will include identification of visually sensitive resources, viewshed mapping, confirmatory visual assessment fieldwork, visual simulations (photographic overlays), cumulative visual impact analysis, and proposed visual impact mitigation. The VIA will address the following:
  - (1) The character and visual quality of the existing landscape;
  - (2) Visibility of the Project, including visibility of Project operational characteristics;

- (3) Visibility of above-ground Project interconnections, if proposed, and roadways to be constructed within the Study Area;
- (4) Appearance of the Project upon completion, including structure size, architectural design, facade colors and texture, and lighting associated with the collection substation;
- (5) Lighting (including lumens, location and direction of lights for Project Area and/or task use, safety including worker safety and tall structure marking requirements) and similar features including a discussion on the minimization of upward-directed lighting;
- (6) Representative views (photographic overlays) of the Project, including front, side and rear views, indicating approximate elevations; from select resource locations representing as practical as possible, views from the north, south, east, and west compass locations;
- (7) Nature and degree of visual change resulting from construction of the Project and above-ground interconnections;
- (8) Nature and degree of visual change resulting from operation of the Project;
- (9) Analysis and description of related operational effects of the Project such as glare. A discussion on any potential glare impacts will be provided in the Application. No plumes, shading, or shadow flicker are anticipated;
- (10) Proposed reasonable mitigation measures based on an assessment of mitigation strategies including screening (landscaping, listing species used, and the consideration of usage of native species), architectural design, visual offsets, relocation or rearranging facility components), reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for aviation obstruction lighting if required by the FAA; and
- (11) A description of all visual resources that would be affected by the facility that are within a radius of five miles from all the Project Area boundaries.

- (b) The viewshed analysis component of the VIA will be conducted as follows:
- (1) A digital GIS based viewshed analysis will be prepared using Esri ArcGIS Spatial Analyst software for this Project and will include vegetated tree groups to realistically depict the surrounding landscape. The results will be prepared and presented on a 1:24,000 scale current USGS base map. The viewshed maps shall provide an indication of areas of potential visibility based on topography and vegetation and the highest elevation of Project structures. The potential screening effects of vegetation shall also be shown. The map(s) shall be divided into foreground, midground and background areas based on visibility distinction and distance zone criteria. Visually sensitive sites, cultural and historical resources, representative viewpoints, photograph locations, and public vantage points, and landscape similarity zones within the VSA shall be included on the map(s) or an overlay. An overlay indicating landscape similarity zones shall be included. A line of sight profile shall also be done for resources of statewide concern located within the VSA, if applicable.
  - (2) The VIA will include a detailed description of the methodology used to develop the viewshed maps, including software, baseline information, and sources of data.
  - (3) The viewshed mapping will be used to determine potential visibility of viewer groups in the Project Study Area.
  - (4) Viewer groups will include recreational areas (i.e., golf course, state and local parks, recreational waterways, etc.), residences, businesses, listed State or National Register of Historic Places sites, and travelers (interstate and other highway users).
  - (5) The Applicant shall confer with the appropriate municipal representatives, DPS, NYSDEC and OPRHP. Viewpoint selection will be based upon the following criteria:

- (i) representative or typical views from unobstructed or direct line-of-sight views from locations predicted to have direct line-of-sight visibility of facilities components, based on results of preliminary viewshed mapping;
  - (ii) significance of viewpoints designated scenic resources, areas or features which features typically include, but are not limited to: landmark landscapes; wild, scenic or recreational rivers administered respectively by the NYSDEC pursuant to ECL Article 15 or Department of Interior pursuant to 16 USC Section 1271; forest preserve lands, scenic vistas, conservation easement lands, scenic byways designated by the federal or state governments; Scenic districts and scenic roads, designated by the Commissioner of Environmental Conservation pursuant to ECL Article 49 scenic districts; state parks or historic sites; sites listed on or eligible for listing on National or State Registers of Historic Places; areas covered by scenic easements, public parks or recreation areas; nearby NYS Forest Lands, locally designated historic or scenic districts and scenic overlooks; National Rivers Inventory listed or candidate waterways; and high-use public areas;
  - (iii) level of viewer exposure, i.e., frequency of viewers or relative numbers, including residential areas, or high-volume roadways;
  - (iv) proposed land uses identified in publicly available, government-published data bases;
  - (v) verifiable input provided from local public sources; and
  - (vi) The Applicant will use the New York Cultural Resources Information System (CRIS), and provide a listing of Eligible Historic Sites with corresponding Unique Site Numbers (“USNs”), addresses, along with mapped GIS locations. Most data for eligible sites are already on the CRIS system in the form of site plans, pictures, and written forms. The USNs can be cross-referenced to the data that SHPO and OPRHP already have in their system.
- (6) Photographic simulations of the Project and interconnections shall be prepared from the representative viewpoints to demonstrate the post-construction appearance of the Project. Where vegetation screening is relied on for project

mitigation, leaf-off (i.e., wintertime) and leaf-on (i.e., summertime) simulation shall be provided. Representative viewpoints shall be established in consultation with DEC, DPS, OPRHP, and a three-dimensional model of the Project built according to site engineering specifications will be prepared from select viewpoint locations. Photographs to be used in simulations will be acquired during site visits and will represent leaf-off conditions. An appropriate number of candidate locations for simulations will be chosen resulting from a number of preliminary investigations, surveys and stakeholder input, with the ultimate focus on the visual resources inventory in combination with the predicted visibility of the viewshed analysis and on-the-ground site visits.

- a. The Applicant will provide either leaf-off photographs or leaf-off photographic simulations from representative viewpoints as determined through additional consultations, having direct line-of-sight visibility of the proposed Project, viewing circumstance with respect to vegetative obstructions (e.g. leaf-off conditions are not as critical with wide open agricultural land views), and within the scope of Article 10 regulations.
- (7) Additional revised simulations illustrating mitigation of the Project, such as use of screening, will be considered. Discussion of other general mitigation strategies such as design and layout will be discussed in the Application. If mitigation is proposed, simulations will be prepared illustrating the incorporated mitigation, as it appears from select observation points.
  - (8) Each set of existing and simulated view of the Project shall be compared and rated and the results of the VIA shall be summarized. Documentation of the steps followed in the rating and assessment methodology shall be provided including results of rating impact panels and a description of the qualifications of the individuals serving on the panels. Where visual impacts from the proposed Project are identified, potential mitigation measures shall be outlined, and the extent to which they effectively minimize such impact shall be addressed. The Applicant will utilize a visual impact rating form for comparing project photo simulations. This form is a simplified version of various federal agency visual impact rating systems.

- (9) As applicable to the proposed Project technology, the analysis shall include analyses of overall appearance and operational characteristics of the Project and related facilities, including night-lighting, glare, or related visible effects of Project operations, including an assessment of the predicted extent, frequency and duration of any such visible effects created by the Project.
- (10) Documentation of the identification and outreach to visual stakeholders pursuant to 16 NYCRR § 1001.24(b)(4).

### 3.25 Effects on Transportation (Exhibit 25)

The Application will present a description of existing, pre-construction roadways and their associated usage within the Project Area and the larger Study Area. The Study Area is currently served by a network of state, county, and local roadways. Existing roads within the Study Area range are primarily two-lane roads with paved or dirt shoulders. Data will be obtained from the NYSDOT Traffic Data Online Viewer to review existing traffic volumes along the proposed routes for delivery of Project components, construction, and operation of the Project.

The Application will include a site plan depicting the location and dimensions of all Project related access roads used for construction, maintenance, and operation within the Project Area. The detailed roadway descriptions included in Exhibit 25 of the Application will include existing vehicle traffic, general use levels, accident occurrence levels, school bus service areas, and emergency response vehicle departure routes to and from the Project based upon publicly available information. The load bearing and structural rating of existing roads within proximity of the Project Area will be specified in the description. An analysis of the suitability of existing road surfaces and intersections for transport of Project related materials will be provided. Consultation with local, State and Federal transportation agencies, highway departments, and emergency responders will be conducted.

It is anticipated that existing roadways within and surrounding the Project Area will have adequate capacity for accommodating deliveries for Project construction. Most construction deliveries are anticipated to occur utilizing flatbed trucks. No over-size deliveries are anticipated to be required. Information on the approximate size and number of construction vehicles necessary for Project construction will be included in the Application.

Additional vehicle use will include gravel trucks, pick-up trucks for equipment and tools, and trucks and cars for transporting personnel. The Application will provide a list of typical construction vehicles anticipated to be in use, along with the associated vehicle weights, and estimated numbers of daily round trips for each.

Once construction of the Project is complete, transportation levels during operations will be minimal. Maintenance activities will generally involve individuals or small crews and utility crew pick-up trucks, which are typical vehicles currently in use in this rural area. Normal, scheduled



maintenance activities may involve monthly visits to the Project. Such service visits typically involve one to two pick-up trucks. If an unscheduled repair of a significant component should be required, larger vehicles similar to those used during typical commercial construction may be required for a short duration and limited location. The Applicant is responsible for the maintenance of all private access roads leading to the solar array location. The Application will provide O&M procedures that will provide more detail on scheduled and unscheduled maintenance.

An evaluation of the traffic and transportation impacts of the Project from construction related activities will be provided in Exhibit 25 of the Application. Mitigation and safety measures will be proposed if any adverse impacts are identified. Exhibit 25 will include a road use survey, with traffic patterns, accident rates, and school bus routes. To help assess impacts to emergency services, Exhibit 25 will include a map showing locations of emergency services providers relative to the Study Area.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 25 of the Application in accordance with 16 NYCRR § 1001.25:

- (a) A conceptual site plan, drawn at an appropriate scale, depicting all Project Site driveway and roadway intersections, showing:
  - (1) Horizontal and vertical geometry, the number of approach lanes, the lane widths, shoulder widths, traffic control devices by approaches, sight distances.
  - (2) There are no wind turbine sites proposed as part of the Project, therefore this section of the Exhibit 25 regulation is not applicable.
- (b) A description of pre-construction characteristics of roads in the vicinity of the Project, including:
  - (1) A review of existing data on vehicle traffic, use levels and accidents.
  - (2) A review of transit facilities and routes, including areas of school bus service.

- (3) An identification of potential approach and departure routes to and from the Project Area for police, fire, ambulance and other emergency vehicles.
  - (4) The load bearing and structural rating of existing roads will be specified in the detailed roadway descriptions.
  - (5) The Project Area is not within a congested urbanized area, therefore 24-hour traffic volume counts and peak turning movement counts for typical weekday morning, weekday afternoon, and Saturday peaks, at representative critical intersections are not applicable and will not be included in the Application.
- (c) The Study will include an estimate of the trip generation characteristics of the Project during both construction and operation. The estimate will include:
- (1) For each major phase of construction, and for the operation phase, an estimate of the number and frequency of vehicle trips, including time of day and day of week arrival and departure, distribution, by size, weight and type of vehicle.
  - (2) An identification of approach and departure routes to and from the Project Area out to a 5-mile distance for vehicles carrying water, fuel oil, bulk fuels (including wood, biomass, coal, and municipal solid waste, if applicable), chemicals or hazardous materials for construction or operation of the Project will not be presented in the Application because deliveries of these materials is not proposed.
  - (3) For major cut or fill activity (spoil removal or deposition at the Project Area and affected interconnection areas), a separate estimate of the number and frequency of vehicle trips, including time of day and day of week arrival and departure, distribution, by size, weight and type of vehicle.
  - (4) An identification of approach and departure routes to and from the Project Area for construction workers and employees of the Project.
- (d) The Study will include an analysis and evaluation of the traffic and transportation impacts of the Project, including:

- (1) Because the Project will have no significant impact on traffic following the construction phase, no analysis of future traffic conditions with and without the Project will be prepared;
  - (2) An evaluation of the adequacy of the road system to accommodate the projected traffic during peak construction, the analysis to also include an identification of the extent and duration of traffic interferences during construction of the Project and any interconnections;
  - (3) No oversized load deliveries are anticipated. Should any be required, the Application will include an assessment of over-size load deliveries and the adequacy of roadway systems to accommodate oversize and over-weight vehicles; improvements necessary to accommodate oversize or overweight deliveries; impacts associated with such improvements; and mitigation measures appropriate to minimize such impacts;
  - (4) An identification and evaluation of practicable mitigation measures regarding traffic and transportation impacts if needed, including timing restrictions, the use of alternative technologies, the construction of physical roadway improvements, and the installation of new traffic control devices as well as the repair of local roads due to the damage by heavy equipment or construction activities during construction or operation of the Project.
    - a. The Applicant will consider any overweight/oversize permitting and road feasibility issues for delivery of transformers and other substation and point of interconnection related equipment, as applicable.
  - (5) A description of all road use and restoration agreements, if any, between the Applicant and landowners, municipalities, or other entities, regarding documentation and repair of local roads damaged by heavy equipment or construction activities during construction or operation of the Project.
- (e) An analysis and evaluation of the impacts of the Project on mass transit systems will not be presented in the Application as there are none within the Study Area. An analysis and evaluation of any impacts on airports and airstrips, or on military training and

frequent military operations in the National Airspace System and Special Use Airspace designated by the Federal Aviation Administration will be included, if any.

- (f) No construction or alteration is proposed that requires a Notice of Proposed Construction to be submitted to the administrator of the Federal Aviation Administration (FAA) in accordance with 14 Code of Federal Regulations, Part 77 pursuant to 49 U.S.C., Section 44718.
- (g) Though no offsite improvements are anticipated to be necessary, should the Project require offsite improvements, these will be assessed in the Application.

### 3.26 Effects on Communication (Exhibit 26)

The Project is not anticipated to interfere with any existing communication systems. The Facility will lack tall structures and exposed moving parts, and it is anticipated that it will generate only very weak electromagnetic fields (EMF) at the property boundaries. The Application will document publicly known communication sources above and below ground within the Project Study Area, including the following:

- Underground cables and fiber optic lines;
- AM radio;
- FM radio;
- Television stations;
- Telephone systems;
- Microwave transmission (all affected sources, not limited to a two-mile radius from all the Project Area boundaries);
- Emergency services communication systems;
- Municipal/school district services;
- Public utility services;
- Doppler/weather radar (all affected sources, not limited to a two-mile radius from all Project Area boundaries);
- Air traffic control (all affected sources, not limited to a two-mile radius);
- Department of Defense (DOD)/Armed Forces (all affected sources, not limited to a two-mile radius);
- Global positioning systems, Loran (all affected sources, not limited to a two-mile radius); and
- Amateur radio licenses registered to users.

The Applicant will attempt to identify any underground cables or fiber optic lines within two miles of the Project Area if they are found to exist. The Applicant will consult with Dig Safe New York (DSNY) in an effort to obtain maps of any buried cables within two miles of the Project Area. Prior to construction, the Applicant will submit a “design ticket” to DSNY, which will initiate a process in which utilities and DSNY provide relevant mapping to the Applicant. The Project will avoid any impacts to underground cables or fiber optic lines.

Excelsior Energy Center will consult with the National Telecommunications and Information Administration (NTIA). Any response and/or concerns from NTIA will be included in Exhibit 26 of the Application.

The Complaint Resolution Plan developed for this Project and referenced throughout this PSS, will be available to resolve issues and complaints should they arise within the local community, largely on an individual basis. The Complaint Resolution Plan will outline the steps for investigation and resolution of such complaints.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 26 of the Application in accordance with 16 NYCRR § 1001.26:

- (a) The Applicant will consult with the Genesee County Emergency Management Services, Genesee County Sheriff's Office, and NYS Division of Homeland Security & Emergency Services to assess any effects on communication services, with particular respect to emergency services, or potential impacts on the communication network for the NYS Early Warning Weather Detection System. An identification of all existing broadcast communication sources within a two-mile radius of the Facility and the electric interconnection between the Project and the point of interconnection, unless otherwise noted, including:
  - (1) AM radio.
  - (2) FM radio.
  - (3) Television.
  - (4) Telephone.
  - (5) Microwave transmission (all affected sources, not limited to a two-mile radius).
  - (6) Emergency services.
  - (7) Municipal/school district services.
  - (8) Public utility services.
  - (9) Doppler/weather radar (all affected sources, not limited to a two-mile radius).
  - (10) Air traffic control (all affected sources, not limited to a two-mile radius).
  - (11) Armed forces (all affected sources, not limited to a two-mile radius).

- (12) Global positioning systems (GPS).
  - (13) LORAN (all affected sources, not limited to a two-mile radius).
  - (14) Amateur radio licenses registered to users.
- (b) Based upon publicly available information, the Applicant will identify underground cables or fiber optic major transmission telecommunication lines within two miles of the Facility and the electric interconnection between the Project and point of interconnection. The Project will avoid any impacts to underground cables or fiber optic lines. The Applicant will contact Genesee County to confirm identification of any fiber potentially connecting radio towers.
- (c) A statement describing the anticipated effects of the proposed Project and the electric interconnection between the Project and the point of interconnection on the communications systems required to be identified pursuant to subdivision (a) and (b) of this Exhibit, including the potential for:
- (1) Structures to interfere with broadcast patterns by re-radiating the broadcasts in other directions;
  - (2) Structures to block necessary lines-of-sight;
  - (3) Physical disturbance by construction activities. The Applicant will consult with DSNY prior to the commencement of any construction activities.
  - (4) Adverse impacts to co-located lines due to unintended bonding; and
  - (5) Any other potential for interference.
- (d) An evaluation of the design configuration of the proposed Project and electric interconnection between the Project and the point of interconnection demonstrating that there shall be no adverse effects on the communications systems required to be identified pursuant to subdivision (a) and (b) of this exhibit.
- (e) A description of post-construction activities that shall be undertaken to identify and mitigate any adverse effects on the communications systems required to be identified pursuant to subdivision (a) and (b) of this section that occur despite the design configuration of the proposed Project.

- (f) There are no wind power facilities proposed as part of the Project, therefore this section of the Exhibit 26 regulation is not applicable.



### 3.27 Socioeconomic Effects (Exhibit 27)

The Excelsior Energy Center Project construction, operation, and maintenance will be analyzed to determine the socioeconomic effects in the vicinity of the Town of Byron. Economic impacts will be evaluated and described in the Article 10 Application, in compliance with Exhibit 27 requirements in 16 NYCRR § 1001.27, to determine potential socioeconomic impacts of the Project. The potential socioeconomic impacts include:

**A. On-site construction work-force impacts:**

Local construction employment will primarily benefit those in the construction trades, including equipment operators, truck drivers, laborers, and electricians. Estimates of the construction workforce will be provided in Exhibit 27 of the Application and will include a breakdown of the anticipated on-site workforce by discipline for each quarter during the construction period, along with an estimate of the peak construction employment level. These estimates will be prepared based on the Applicant's experience with similar projects and will be customized to the Excelsior Energy Center Project.

**B. Direct effects:**

Direct effects of the project include payroll and other expenditures. Local expenditures will occur during the construction phase and are likely to include construction materials such as concrete, gravel, and re-bar. Estimates of direct spending will be developed by the Applicant and will be provided in Exhibit 27 of the Application.

**C. Indirect and induced effects:**

Indirect effects arise from business to business spending, rather through direct spending by Excelsior Energy Center. Induced effects occur as money is recirculated through household spending patterns, generating additional local economic activity. A range of estimated indirect and induced effects will be developed and presented in Exhibit 27 of the Application. A qualitative discussion will address the annual net secondary effects from Facility construction.

**D. Post-construction direct effects:**

Annual expenditures for direct O&M expenses include parts, supplies, road maintenance, landscape services, fuel, vehicle maintenance, tools, etc. Direct effects associated with

O&M activities will be estimated by the Applicant based on the characteristics of the proposed Excelsior Energy Center and the Applicant's experience with similar projects. These estimates will be presented in Exhibit 27 of the Application.

**E. Post-construction secondary employment impacts:**

Secondary (or indirect and induced) economic effects will result from O&M activities. A range of estimated indirect and induced effects will be developed and presented in Exhibit 27 of the Application. A qualitative discussion will address the annual net secondary effects from Facility construction

**F. Construction and operation school district impacts:**

Excelsior Energy Center encourages hiring local employees to fill temporary construction positions, as well as permanent operations jobs, to the extent possible. Further, families do not typically relocate for temporary construction jobs. As a result, there will be few, if any, new students enrolled in the area's schools and no adverse impact to the school districts in the area.

**G. Construction and operation impacts on municipal, public authority, and utility services:**

Excelsior Energy Center will coordinate with the Town of Byron, Genesee County utilities and emergency services providers to ensure that public services and health and safety are not negatively impacted by the Project. The Genesee County Sheriff's office, NY State Police, and local fire and ambulance departments have adequate resources to monitor any vehicular traffic from construction and operations activities on area roads, to address routine medical needs and to address any law enforcement or public safety issues that may occur.

Excelsior Energy Center employees will be trained in fire safety and high voltage. It is anticipated that local fire and ambulance personnel would primarily be attending any injuries or medical situations at ground level.

All solar arrays and energy storage facilities will be sited with adequate setback from residences, structures, roads, utilities and property lines to ensure that any fire or collapse

will not impact the health and safety of area residents. Excelsior Energy Center will continue to coordinate with municipal officials and emergency services providers and provide an update to this information in Exhibit 27 of the Application, including any training needs or equipment deficiencies that may be identified in order to address any contingency plans for emergency response.

The Project will have no need for potable water connection or wastewater connection and therefore will not impact any public infrastructure beyond local roadways, which will be returned to at least pre-existing conditions following the completion of construction if necessary. Similarly, there will be no incremental costs for solid waste disposal, as waste disposal will be limited to small amounts of solid waste (paper, rags, packing cardboard) and will be recycled or disposed of properly by Project work crews in designated receptacles for disposal in properly licensed offsite landfills.

**H. Designated tax jurisdiction, tax and payment impacts:**

The following entities have tax assessment jurisdiction on parcels within the Project Area (see Figure 14 for locational reference):

- Genesee County
- Town of Byron
- Byron-Bergen Central School District
- Byron Fire Department 1 Inc.

Excelsior Energy Center anticipates that these entities will benefit from taxes on Project components sited within their jurisdictions. The Applicant anticipates entering into a PILOT agreement and/or Host Community Agreement. Excelsior Energy Center will continue to coordinate with municipal officials and provide an update in Exhibit 27 of the Application based upon publicly available information.

**I. Smart growth public infrastructure compliance impacts:**

New York ECL Article 6, Section 0107 requires that the construction of new or expanded “public infrastructure” meet certain Smart Growth criteria. The Project is a privately funded, merchant energy project and as such is not subject to ECL § 6-0107. Nevertheless, the

Application will include a discussion of the Project's consistency with the criteria, as applicable.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 27 of the Application in accordance with 16 NYCRR § 1001.27:

- (a) An estimate of the average construction work force, by discipline, for each quarter, during the period of construction; and an estimate of the peak construction employment level. This estimate will be based on the actual number of jobs budgeted for the Project, as well as the Applicant's prior industry experience with similarly situated projects.
- (b) An estimate of the annual construction payroll, by trade, for each year of construction and an estimate of annual direct non-payroll expenditures likely to be made in the vicinity of the Project (materials, services, rentals, and similar categories) during the period of construction.
- (c) A range of estimates of the annual secondary employment and economic activity likely to be generated in the vicinity of the Project by the construction of the solar facility, to reflect the uncertainty associated with such, possibly multiplier-based, secondary impact estimates. A qualitative discussion will address the annual net secondary effects from Project construction.
- (d) An estimate of the number of jobs and the on-site payroll, by discipline, during a typical year once the Project is in operation, and an estimate of other expenditures likely to be made in the vicinity of the Project during a typical year of operation. The Applicant should rely, as much as practicable, on the actual number of jobs budgeted for the Project, as well as the Applicant's prior industry experience with similarly situated projects.
- (e) A range of estimates of the annual secondary employment and economic activity likely to be generated in the vicinity of the Facility by its operation, to reflect the uncertainty associated with such, possibly multiplier-based, secondary impact estimates. A

qualitative discussion will address the annual net secondary effects from facility operation.

- (f) An estimate of incremental school district operating and infrastructure costs due to the construction and operation of the Project, this estimate to be made after consultation with the affected school district.
- (g) An estimate of incremental municipal, public authority, or utility operating and infrastructure costs that will be incurred for police, fire, emergency, water, sewer, solid waste disposal, highway maintenance and other municipal, public authority, or utility services during the construction and operation phases of the Project (this estimate to be made after consultation with the affected municipalities, public authorities, and utilities).
- (h) An identification of jurisdictions that levy real property taxes or benefit assessments or user fees upon the Facility area, its improvements and appurtenances and any entity from which payments in lieu of taxes will or may be negotiated.
- (i) For each jurisdiction, an estimate of the incremental amount of annual taxes (and payments in lieu of taxes [PILOT], benefit charges and user charges) projected to be levied against the post-construction Facility area, its improvements and appurtenances.
- (j) For each jurisdiction, a comparison of the fiscal costs to the jurisdiction that are expected to result from the construction and operation of the Facility to the expected tax revenues (and payments in lieu of taxes, benefit charge revenues and user charge revenues) generated by the Project.
- (k) An analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity (this analysis to be made after consultation with the affected local emergency response organizations).

- (l) Although not required by ECL 6-0107, Exhibit 27 of the Application will present a detailed statement of how the proposed Project and interconnections are consistent with each of the applicable state smart growth public infrastructure criteria specified in ECL § 6-0107, or why compliance would be impracticable.
- (m) A summary of available information on the feasibility of providing local access to energy generation by the Project.
- (n) A commitment by the Applicant to track and report the actual number of direct jobs created during the construction and operational phases of the Project, as well as the tax payment to local jurisdictions made during the course of the Project.
- (o) The Applicant will make available any workpapers associated with its socioeconomic impact estimates.

### 3.28 Environmental Justice (Exhibit 28)

Potential Environmental Justice Areas are defined by New York 6 NYCRR § 487.3 as areas with populations that meet one or more of the following thresholds:

- 51.1 percent or more of the population in an urban area reported themselves to be members of minority groups; or
- 33.8 percent or more of the population in a rural area reported themselves to be members of minority groups;<sup>2</sup> or
- 23.59 percent or more of the population in an urban or rural area had household incomes below the federal poverty level.

The Project Area, including a half-mile buffer around the proposed Project Site, is contained within Census Block Groups 4, 5 and 6 of Census Tract 9501; Census Block Group 1 of Census Tract 9502; and Census Block Group 4 of Census Tract 9511 in Genesee County, New York. According to the most current data from the U.S. Census Bureau's American Community Survey<sup>3</sup>, Census block group 360379501004 has a minority (non-white, non-Hispanic) population of 2.46 percent. Census block group 360379501005 has a minority (non-white, non-Hispanic) population of 1.3 percent. Census block group 360379501006 has a minority (non-white, non-Hispanic) population of 1.84 percent. Census block group 360379502001 has a minority (non-white, non-Hispanic) population of 23.11 percent. Census block group 360379511004 has a minority (non-white, non-Hispanic) population of 5.48 percent. Census data for Population below the poverty level is only available by tract. Census tract 36037950100 has a population below the poverty level of 11.10 percent. Census Tract 36037950200 has a population below the poverty level of 9.49 percent. Census tract 36037951100 has a population below the poverty level of 8.67 percent. Based on the review of the minority and low-income population of the Census Block Group, the proposed Project Area is not in a Potential Environmental Justice Area, as defined by the State of New York.

Exhibit 28 requires the Applicant to provide sufficient information for an assessment of the potential impact of the Facility on Environmental Justice communities. The intent of an

---

<sup>2</sup> *Minority population* means a population that is identified or recognized by the U.S. Census Bureau as Hispanic, African-American or Black, Asian and Pacific Islander, or American Indian.

<sup>3</sup> Source: U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates

Environmental Justice evaluation is to determine if air quality and associated health impacts are disproportionately affecting certain communities or populations. To guide such an evaluation, NYSDEC promulgated Commissioner Policy 29 (CP-29), entitled Environmental Justice and Permitting. CP-29 has limited applicability, applying only to applications for major projects and major modifications for permits relating to water pollution, air pollution, solid and hazardous waste management, and siting of industrial hazardous waste facilities. The Project will not require any such permits. Accordingly, CP-29 is not applicable to the Project. The Project will have no air emissions during operation, and, accordingly, CP-29 and NYSDEC regulations do not apply and the Environmental Justice Analysis outlined in 6 NYCRR § 487.6 is not required and will not be provided in the Article 10 Application.

To date, Excelsior Energy Center has received no comments concerning Environmental Justice.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 28 of the Application in accordance with 16 NYCRR § 1001.28:

- (a) The Application will utilize minority population and household income data from the U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates for the Census Block Group(s) and Tract(s) in which the Project Area is located. This data will be compared with the thresholds of 6 NYCRR § 487.3 for determining Potential Environmental Justice Areas. A statement that because: (a) the proposed project impact area is not in a Potential Environmental Justice Area, as defined by 6 NYCRR § 487.6; (b) there will be no air emissions during operation; and (c) any vehicle/equipment emissions during construction will not affect the EJ area due to distance, the Project will not negatively impact this or any other Environmental Justice areas. Therefore, the Environmental Justice Analysis provided by 6 NYCRR § 487.6 is not required.
- (b) A map of environmental justice areas in relation to Project facilities.



### 3.29 Site Restoration and Decommissioning (Exhibit 29)

At the end of the useful economic life of the Project, the Project will either continue operations, be repowered, or be decommissioned. In the event that the Project permanently ceases operations, the Decommissioning Plan will be implemented to remove and recycle, to the maximum extent practicable, equipment and related materials in order to essentially return the Project Area to substantially the same condition as its pre-construction condition so that it is available for agriculture and other open space usage as determined by each landowner.

The decommissioning of the Project is, in many ways, the reverse of its construction. Much of the same equipment that was utilized in the construction of the Project, such as trucks, backhoes, etc., will again be used in the decommissioning and removal of the components. Large quantities of steel, cable and concrete will be removed and transported off-site for recycling and/or disposal at approved facilities. Off-site disposal facilities will be identified at the time of decommissioning, as availability of facilities is likely to change in the decades during the Project's useful economic life. The Project will work with local officials, state agencies and landowners to ensure minimal environmental impact to the area.

In general, the decommissioning of the Project will begin with the disconnection of the collection cables from each solar array. Collection cables will be removed and recycled, while any underground sections will be abandoned in place in order to mitigate environmental impacts or may be pulled up and recycled, as will be determined in consultation with the landowner and in accordance with such requirements as may be applicable as determined by the Siting Board. Collection cable support towers/poles will be removed and recycled.

Each solar array would then be deconstructed with the removal of panels, supports, and posts in that order. Security fencing will be removed and recycled and/or disposed of. Access roads will be left in place for the use of the landowners or removed at landowner discretion if they do not intend to make use of the access roads. Disturbed areas will be regraded, topsoiled, and seeded to the extent necessary. It is anticipated that the decommissioning of the Project would take up to a year to complete (more if any permitting is required).

If conditions permit, after the useful life of the Project, the Applicant may "repower" the Project. When a location with good solar resources and sufficient transmission capacity is found,

combined with landowners and a community willing to host a solar energy project, the Applicant may want to stay in that area and produce solar energy as long as is possible. Regardless, the Applicant will be prepared to decommission the Project and fulfill its obligations when the time comes.

Excelsior Energy Center is contractually obligated with the landowners to remove improvements, including solar arrays, foundations, and other facilities to a depth of at least three feet below the surface and restore the property to substantially the same condition that existed immediately prior to construction. In addition to the contractual obligations, decommissioning plan funding will be described consistent with the requirements of 16 NYCRR § 1001.29. The details of the decommissioning plan will be provided in Exhibit 29 of the Application.

### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 29 of the Application in accordance with 16 NYCRR § 1001.29:

- (a) A statement of the performance criteria proposed for site restoration in the event the Project cannot be completed and for decommissioning of the Project, including a discussion of why the performance criteria are appropriate. Among other things, the statement shall address:
  - (1) Safety and the removal of hazardous conditions;
  - (2) Environmental impacts;
  - (3) Aesthetics;
  - (4) Salvage and recycling;
  - (5) Potential future uses for the site; and
  - (6) The useful life of the Project.
- (b) A plan for the decommissioning and restoration of the Project Area including how such decommissioning and restoration shall be funded and a schedule with defined period of time for determining when to conduct decommissioning and site restoration activities. This plan shall include a detailed preliminary estimate to support the proposed decommissioning and site restoration funding upon cessation and operation of the

Project based on decommissioning and site restoration costs from similar projects (if similar costs are available). The plan will also include:

- (1) A detailed cost estimate for site restoration activities and decommissioning of the Project. In addition, the Application will include the proposed type of, and justification for, the financial assurances that will be provided for decommissioning and restoration.
  - (2) A procedure and schedule for notifying local municipalities and landowners prior to decommissioning and restoration activities.
  - (3) A description of proposed agricultural restoration techniques to be utilized during site restoration and decommissioning will be provided in accordance with applicable NYSDAM guidelines, to the maximum extent practicable.
- (c) There are no wind power facilities proposed as part of the Project, therefore this section of the Exhibit 29 regulation is not applicable.
- (d) No nuclear power facilities are proposed as part of the Project; therefore, this section of the Exhibit 29 regulation is not applicable.

### 3.30 Nuclear Facilities (Exhibit 30)

There are no nuclear facilities included in the proposed Project. Therefore, this requirement is not applicable to the Excelsior Energy Center. Therefore, this information will not be included in the Application.

### 3.31 Local Laws and Ordinances (Exhibit 31)

The Excelsior Energy Center will be located in the Town of Byron, Genesee County, New York. The Applicant will consult with the Town during the Application process to identify the substantive provisions of applicable laws and ordinances that should be addressed in the Application.

The procedural and substantive requirements described below are based upon the Town's current Zoning Ordinance effective 2013 specific to solar energy systems.

#### **A. Local Procedural Requirements**

Below is a preliminary list of local laws and ordinances of a procedural nature that may be applicable to the construction and operation of the Excelsior Energy Center Project in the absence of Article 10:

*Town of Byron – Article XI Regulations Governing Special Permit Section 11.15 Solar Energy Systems:*

*(a) Solar energy systems are permitted in all districts only with approval by the Planning Board with a Special Use Permit and Site Plan review.*

#### **Local Procedural Requirements to be Implemented by Municipality to be Authorized by the Board**

Except with respect to the New York State Uniform Fire Prevention and Building Code, as explained below, Excelsior Energy Center does not request the Board to authorize a municipality to implement any local procedural requirements.

#### **B. Local Substantive Requirements**

Below is a preliminary list of the local laws and ordinances of a substantive nature that may be applicable to the construction and operation of the Excelsior Energy Center Project.

*Town of Byron – Article XI Regulations Governing Special Permit Section 11.15 Solar Energy Systems:*

- (a) Solar energy systems are permitted in all districts only with approval by the Planning Board with a Special Use Permit and Site Plan review.*
- (b) In a Residential (R-1) District, such Solar Energy System shall be permitted only when attached to the principal building on a lot.*
- (c) Setback requirements for other than R-1 Districts:*
  - (i) Front setback [50 feet] must be behind the principle building front setback requirements (see Table I).*
  - (ii) Side and rear setbacks must be at least 1 ½ times the height of the Solar Energy Structure.*

### **Consistency with Substantive Requirements**

At this time, the Applicant has determined that none of the local substantive requirements of the effective zoning regulations are unreasonably burdensome in terms of existing technology, cost/economics, or consumer needs. Therefore, the Applicant is not currently requesting that the Siting Board refuse to apply any of the substantive requirements of the local zoning code. If, at any time, the Applicant determines that it cannot comply with any of the substantive requirements identified above, the Applicant will identify those substantive requirements with a request that the Siting Board not apply such law(s) and will include a statement justifying those requests.

#### **A. Zoning Designation**

The Town of Byron has adopted zoning regulations (last amended 2013). The Project Area is primarily zoned Agricultural-Residential. The following provides a summary of the substantive provisions of zoning regulations that may be applicable to the Project.

##### *Town of Byron Zoning Law Section 6.04 – Preservation of Natural Features*

- (a) No structure shall be built within fifty (50) feet of the centerline of the bed of a stream carrying water on average six (6) months of the year, except for:*
  - (i) Public bridges, water works, and other municipal or utility facilities.*
  - (ii) Such private bridges, fords, drainage conduits, embankments, and similar structures as are necessary to permit access to a lot or portion of thereof or as are incidental to a lawful use of a lot, provided that structure will not have a material adverse effect on the stream, nor alter the flow of water*

*therein, nor substantially increase the likelihood of flood or overflow in the area.*

- (b) No person shall strip, excavate, or otherwise remove topsoil for sale or other use other than on the premises from which it was excavated or pursuant to a permit issued in accord with Section 1102 of this Local Law*
- (c) Natural features shall be preserved whenever possible.*

*Town of Byron Zoning Law Section 9.09 – F-P Flood Plain Overlay Zone – FPO*

- (a) The Flood Plain Overlay (FPO) Zone is shown on the Zoning Map of the Town of Byron to identify potential areas of special flood hazard, to insure coordinated review of zoning and flood damage prevention regulations, and to minimize the threat of flood damages. Exact boundaries of the special flood hazard areas can be found on the Federal Emergency Management Agency's (FEMA) most current Flood Insurance Rate Map (FIRM), or equivalent map for the Town of Byron. The intent is to not have any new development in the Flood Plain Overlay Zone.*

**Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 31 of the Application in accordance with 16 NYCRR § 1001.31:

- (a) A list and copies, in electronic form, of all local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the construction and operation of the Project that are of a procedural nature for those towns within the Project Area. These local procedural requirements are supplanted by PSL Article 10 unless the Board expressly authorizes the exercise of the procedural requirement by the local municipality or agency.
- (b) A list and copies, in electronic form, of all local procedural requirements required to be identified pursuant to section (a) of this exhibit for which the Applicant requests that the Board expressly authorize the exercise of the procedural requirement by the local municipality or agency, including a statement why such local exercise would be desirable or appropriate.

- (c) Identification of the local agency qualified by the Secretary of State that shall review and approve the building plans, inspect the construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing or building code. The Town of Byron has adopted and incorporated the New York State Uniform Fire Prevention and Building Code for administration into its local electric, plumbing and building codes, therefore the Applicant may make a request pursuant to subdivision (b) of this section that the Siting Board expressly authorize the exercise of the electric, plumbing and building permit application, inspection and certification processes by the Town of Byron.
- (d) Identification and copies, in electronic form, of all local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the construction and operation of the Project that are of a substantive nature, together with a statement that the location of the Project as proposed conforms to all such local substantive requirements, except any that the Applicant requests that the Siting Board elect to not apply. Copies of zoning, flood plain and similar maps, tables and/or documents shall be included in the Exhibit when such are referenced in such local substantive requirements. Pursuant to PSL §168(3) (e), the Siting Board must find that the Project is designed to operate in compliance with these local substantive requirements, all of which shall be binding upon the Applicant, unless the Siting Board elects to not apply them by finding that, as applied to the proposed Project such are unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality.
- (e) A list of all local substantive requirements required to be identified pursuant to subdivision (d) of this Exhibit for which the Applicant requests that the Siting Board elect to not apply them by finding that, as applied to the Project such are unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality. For each local substantive requirement identified, a statement justifying the request shall be provided. The statement of justification shall show with facts and analysis the degree of burden caused by the requirement, why the burden should not reasonably be borne by the Applicant,



that the request cannot reasonably be obviated by design changes to the Project, the request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable. The statement shall include a demonstration:

- (1) For requests grounded in the existing technology, that there are technological limitations (including governmentally imposed technological limitations) related to necessary Project component bulk, height, process or materials that make compliance by the Applicant technically impossible, impractical or otherwise unreasonable;
  - (2) For requests grounded in factors of costs or economics (likely involving economic modeling), that the costs to consumers associated with applying the local substantive requirement outweigh the benefits of applying such provision; and
  - (3) For requests grounded in the needs of consumers, that the needs of consumers for the Project outweigh the impacts on the community that would result from refusal to apply the local substantive requirement.
- (f) A list and copies, in electronic form, of any local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the Project's interconnections in public rights of way, if any, that are of a procedural nature.
- (g) A list and copies, in electronic form, of any local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the Project's interconnections in public rights of way, if any, that are of a substantive nature.
- (h) A list of all local procedural or substantive requirements required to be identified pursuant to subdivisions (f) and (g) of this Exhibit for which the Applicant requests that the Siting Board elect to not apply them by finding that, as applied to the proposed Project interconnections such are unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality. For each local procedural or substantive requirement identified, a statement justifying the request shall be provided. The statement of justification shall

show with facts and analysis the degree of burden caused by the requirement, why the burden should not reasonably be borne by the Applicant, that the request cannot reasonably be obviated by design changes to the proposed Project, the request is the minimum necessary, and the adverse impacts of granting the request are mitigated to the maximum extent practicable. The statement shall include a demonstration:

- (1) For requests grounded in the existing technology, that there are technological limitations (including governmentally imposed technological limitations) related to necessary Project component bulk, height, process or materials that make compliance by the Applicant technically impossible, impractical or otherwise unreasonable;
  - (2) For requests grounded in factors of costs or economics (likely involving economic modeling), that the costs to consumers associated with applying the local substantive requirement outweigh the benefits of applying such provision; and
  - (3) For requests grounded in the needs of consumers, that the needs of consumers for the Project outweigh the impacts on the community that would result from refusal to apply the local substantive requirement.
- 
- (i) A summary table of all local substantive requirements required to be identified pursuant to subdivisions (d) and (g) of this exhibit in two columns listing the provisions in the first column and a discussion or other showing demonstrating the degree of compliance with the substantive provision in the second column.
  - (j) An identification of the zoning designation or classification of all lands constituting the site of the proposed Project and a statement of the language in the zoning ordinance or local law by which it is indicated that the proposed Project is a permitted use at the proposed site. If the language of the zoning ordinance or local law indicates that the proposed Project is a permitted use at the proposed site subject to the grant of a special exception, a statement of the criteria in the zoning ordinance or local law by which qualification for such a special exception is to be determined.

### 3.32 State Laws and Regulations (Exhibit 32)

The Applicant has compiled a list of permits, and other authorizations required by State agencies to approve the construction of the Project (see Table 2 below). Throughout the duration of the Article 10 preparation process, the Applicant will coordinate with agencies listed in Table 2 and provide an updated table upon submission of the Application. Table 2 indicates each permit or other authorization and the associated regulatory agency, requirements, preliminary studies and Application requirements, and an estimated agency review time.

**Table 2. State Reviews, Permits and Approvals**

| Permit/<br>Clearance  | Regulatory<br>Agency <sup>1</sup>                 | When<br>Required  | Potential Studies<br>& Application<br>Requirements   | Status and Estimated<br>Approval Times   |
|---|---|---|--|--|
| Article 10 Siting<br>Certificate                                      | Siting Board                                      | Construction<br>and operation<br>of major electric<br>generating<br>facilities<br>pursuant to<br>Article 10 of the<br>Public Service<br>Law | Article 10<br>Application to be<br>prepared in<br>accordance with<br>16 NYCRR<br>Chapter X<br>(Certification of<br>Major Electric<br>Generating<br>Facilities) | Final Public Involvement<br>Program Plan (PIP Plan)<br>filed in June 20, 2019.                     |
| Certificate of<br>Public<br>Convenience and<br>Necessity (PSL<br>§68) | New York<br>State Public<br>Service<br>Commission | Projects greater<br>than 80 MW  | Permission<br>required per<br>regulatory<br>requirements as<br>interpreted by<br>Siting Board in<br>Cassadaga<br>decision.                                     | Concurrent with Article 10<br>Application review and<br>approval.                                  |
| Stormwater<br>Permit (SPDES<br>GP-0-15-002)                           | NYSDEC  | Soil disturbance<br>of one (1) or<br>more acre  | Preparation of a<br>SWPPP  | Authorization under this<br>General Permit is<br>coordinated as part of the<br>Article 10 process. |
| Water Quality<br>Certification<br>(Section 401 of<br>CWA)             | Siting Board                                      | Projects whose<br>effluent<br>discharges<br>could affect<br>waters of the<br>U.S.   | Analyses for this<br>Application are<br>ongoing  | Issuance will be<br>coordinated as part of the<br>Article 10 process.                              |

**Table 2. State Reviews, Permits and Approvals**

| Permit/<br>Clearance                               | Regulatory<br>Agency <sup>1</sup> | When<br>Required   | Potential Studies<br>& Application<br>Requirements                             | Status and Estimated<br>Approval Times   |
|--|-----------------------------------|--|--|--|
| Historic<br>Preservation Act<br>(Section 14.09)    | SHPO                              | Project must go through review/consultation to determine whether it will affect historic or culturally significant properties. | Phase I<br>Assessment may be required.   | Project has been preliminarily reviewed on SHPO CRIS.  |
| Agricultural and<br>Markets Law –<br>Article 25-AA | NYSDAM                            | Consultation required as Project is located within certified Agricultural Districts  | Review of<br>Agricultural District<br>Mapping &<br>Coordination with<br>NYSDAM | Consult with NYSDAM for recommendations on how to minimize impacts to agricultural operations as part of the Project. Consultation will be incorporated into Article 10 process. |
| Interconnection<br>Studies                         | NYISO                             | Interconnection<br>Required  | Feasibility study and system reliability impact study underway.                | Interconnection request submitted May 29, 2018   |

### Compliance with State Requirements

The Applicant intends to build and operate the Project in accordance with state laws and regulations as described herein.

### Proposed Studies

Exhibit 32 of the Board's regulation provide that before preparing the Exhibit required by this section, the Applicant shall consult with the State agencies and authorities whose requirements are the subject of the Exhibit to determine whether the Applicant has correctly identified all such requirements.

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 32 of the Application in accordance with 16 NYCRR § 1001.32:

- (a) A list of all State approvals, consents, permits, certificates, or other conditions for the construction or operation of the proposed Project (including interconnection electric transmission lines and fuel gas transmission lines that are not subject to review under Article VII of the PSL) of a procedural nature. These State procedural requirements are supplanted by PSL Article 10, except for permits to be issued by the NYSDEC pursuant to Federal recognition of State authority, or pursuant to federally delegated or approved authority, in accordance with the Clean Water Act, the Clean Air Act and the Resource Conservation and Recovery Act, and permits pursuant to Section 15-1503, Title 9 of Article 27, and Articles 17 and 19 of the ECL, unless the Siting Board expressly authorizes the exercise of such authority by the state agency. In addition to the Article 10 Application, the Applicant will apply to the Public Service Commission for a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the PSL authorizing the exercise of municipal rights to occupy municipal property and for other authorization as clarified by the Siting Board in its Cassadaga decision issuing the certificate.
- (b) A list of all State procedural requirements required to be identified pursuant to subdivision (a) of this section for which the Applicant requests that the Siting Board expressly authorize the exercise of such authority by the State agency, including a statement why such exercise would be desirable or appropriate.
- (c) A list of all State approvals, consents, permits, certificates, or other conditions for the construction or operation of the proposed Project (including interconnection electric transmission lines and fuel gas transmission lines that are not subject to review under Article VII of the PSL) of a substantive nature, together with a statement that the Project as proposed conforms to all such state substantive requirements. Pursuant to PSL § 168(3) (e), the Siting Board must find that the Project is designed to operate in compliance with these State substantive requirements, all of which shall be binding upon the Applicant.
- (d) A summary table of all State substantive requirements required to be identified pursuant to subdivision (c) of this section in two columns listing the provisions in the first column and a discussion or other showing demonstrating the degree of compliance with the substantive provision in the second column.

- (e) A list of all State approvals, consents, permits, certificates, or other conditions for the construction or operation of any proposed offsite interconnections and ancillary features, that are not encompassed within the definition of Major Electric Generating Facility. These State actions not for the construction or operation of the proposed Project are not supplanted by PSL Article 10 and may be State procedural requirements or State substantive requirements.

### 3.33 Other Applications and Filings (Exhibit 33)

The Applicant does not have any pending application or filing with the Siting Board or with any other governmental department, agency or court of competent jurisdiction (state or federal) concerning the development of the Project.

#### **Federal Involvement**

Pursuant to 16 NYCRR § 1001.33(b), the following federal permits, consents, approvals, consultations or licenses may be required for construction or operation of the Project:

#### USFWS:

- Endangered Species Act, Section 7 Consultation

#### USACE:

- National Historic Preservation Act, Section 106 compliance
- Section 404 or Nationwide Permit for Placement of Fill in Federal Jurisdictional Wetlands, Waters of the US

The dates for these federal applications will be provided in the Application.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 33 of the Application in accordance with 16 NYCRR § 1001.33:

- (a) A statement whether the Applicant has pending, or knows of others who have pending, with the PSC or with any other governmental department, agency or court of competent jurisdiction (State or Federal), any application or filing which concerns the subject matter of the proceeding before the Siting Board. If any such applications or filings are pending, the Applicant shall state, for each application or filing, whether the granting of any such application or filing will have any effect on the grant or denial of a certificate, and whether the grant or denial of a certificate will have any effect upon the grant or denial of any such other application or filing. The Applicant shall notify the Secretary, presiding examiner and each party or any significant change in the status of each such application or filing.

- (b) An identification of any Federal permits, consents, approvals, or license that will be required for the construction or operation of the Project. The Application shall specify the date on which an application for any such approval was made or the estimated date on which it will be made. The Applicant shall notify the Secretary, presiding examiner and each party of any significant change in the status of each such application.



### 3.34 Electric Interconnection (Exhibit 34)

Interconnection to the electric transmission system will be achieved by using conventional, state of the art technology. Solar panels will generate power at a low voltage, which will be converted from DC to AC at the inverters. Medium voltage will be collected with a system comprised of underground cables and possibly overhead collection lines that will transmit power to a proposed, on-site collection substation. The collection substation will then transform the power up to 345 kV and deliver the power to the adjacent, proposed 345kV switchyard, to be constructed as part of the Project. The 345kV switchyard will be constructed by the Applicant and then transferred to NYPA to own, maintain, and operate. The Applicant has requested interconnection with New York Power Authority (“NYPA”)’s 345 kV Line #NR2 between Niagara and N. Rochester substations, approximately 21 miles from N. Rochester 345 kV substation and 50 miles from Niagara substation.

Under queue request Q721, the NYISO is currently studying the interconnection of 280 MW to the adjacent NYPA transmission infrastructure. The 345kV switchyard connects the proposed Project to the adjacent NYPA transmission line. The proposed tap will be approximately several hundred feet long and within the Project Area. Although underground cabling is the preferred option for the electrical collection system, overhead cables may be used where requested by landowners or where underground installation is prohibited or infeasible due to natural constraints such as streams or creek crossings, steep topography, bedrock etc.

The final routing of the collection system cables is dependent upon final solar array layout, land acquisition, access road layout, final collection substation siting and field surveys to minimize impacts to resources such as wetlands, forested areas and agricultural lands. In addition to the electrical cables, the collection system will include fiber optic cables that will connect the Project’s SCADA system for O&M communications. The conceptual design of the cable collection system will be provided in the Application.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 34 of the Application in accordance with 16 NYCRR § 1001.34:

- (a) The design voltage and voltage of initial operation.

- (b) The type, size, number and materials of conductors.
- (c) The insulator design.
- (d) The length of the transmission line.
- (e) The typical dimensions and construction materials of the towers.
- (f) The design standards for each type of tower and tower foundation.
- (g) For underground construction, the type of cable system to be used and the design standards for that system.
- (h) For underground construction, indicate on a profile of the line the depth of the cable and the location of any oil pumping stations and manholes.
- (i) Equipment anticipated to be installed in both the proposed collection substation and 345kV switchyard, including an explanation of the necessity of these components.
- (j) Any terminal facility.
- (k) The need for cathodic protection measures.
- (l) A description of installation methods proposed or used for collection lines. For the routing of collection system cables between the various solar arrays within the Project Area and to the Project collection substation, a conceptual design of the cable collection system will be provided along with a discussion of installation methods. In the event there are any overhead collection or transmission pole structures in agriculture fields, the NYSDAM will require that they be self-supporting, with no guy wires being located in agricultural land.
- (m) In the event that overhead collection or transmission pole structures are proposed, associated impacts will be incorporated in the VIA.

### 3.35 Electric and Magnetic Fields (Exhibit 35)

Minimal EMFs are generated by the operation of solar facility components such as the electrical collection lines, and transformers. EMF strength decreases with the square of the distance from the source (the electric charges or currents) for power lines and the cube of the distance from point sources such as substations. The location of electrical collection cables and the location of the collection substation transformers and other electrical equipment inside a restricted area will provide separation of these components from the general public. As a result, EMF levels from Project components are expected to be limited or non-existent.

#### **EMF Study**

The New York State PSC has issued EMF standards that describe measurement methods for compliance. The Applicant will utilize these standards to guide the EMF study that will be included in the Application.

As mentioned above, the Applicant anticipates its electrical interconnection line will be located at a sufficient distance from existing structures so that any EMF levels that may be produced are well below the PSC guidelines.

#### **Proposed Studies**

No new transmission corridors or lines are proposed. Accordingly, an EMF study does not appear to be required. The Applicant will consult with the NYSDPS Staff further on this matter. Pursuant to the Siting Board regulations if a study is determined to be required, the Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 35 of the Application in accordance with §1001.35:

- (a) For the ROW (right-of-way) of the proposed connecting transmission line from the collection substation to the 345KV switchyard providing the electrical interconnection between the proposed Project and the existing electric transmission and distribution system, identify, if applicable, every ROW segment having unique EMF characteristics due to structure types and average heights, corridor widths, and co-location of other transmission facilities in the ROW, if any. The proposed tap will be approximately several hundred feet long and within the Project Area.

- (b) For each if any, identified onsite transmission ROW segment, provide both “base case” and “proposed” cross-sections to scale showing:
  - (1) All overhead electric transmission, sub-transmission and distribution facilities, including the proposed Project showing structural details and dimensions and identifying phase spacing, phasing, and any other characteristics affecting EMF calculations.
  - (2) All underground electric transmission, sub-transmission and distribution facilities.
  - (3) All underground gas transmission facilities.
  - (4) All ROW boundaries.
  - (5) Structural details and dimensions for all structures (dimensions, phase spacing, phasing, and similar categories) and include a Station number identifying the location.
- (c) A set of the aerial photos/drawings enhanced by showing the exact location of each:
  - (1) On-site transmission corridor segment.
  - (2) Cross-section.
  - (3) Nearest residence or occupied non-residential building in each identified ROW segment with a stated measurement of the distance between the edge of ROW and the nearest edge of the residence or building.
- (d) An EMF study, if required, with calculation tables and field strength graphs for each identified segment cross-section, as follows:
  - (1) Signed and stamped/sealed by a licensed professional engineer registered and in good standing in the State of New York.
  - (2) Identification of the specific computer software program used to model the facilities and make the calculations.

- (3) Regarding the electric fields, modeling of the circuits at rated voltage and electric field calculation tables and field strength graphs calculated at one meter above ground level with 5-foot measurement intervals depicting the width of the entire ROW and out to 500 feet from the edge of the ROW on both sides including digital copies of all input assumptions and outputs for the calculations.
- (4) Regarding magnetic fields, modeling of the circuit phase currents equal to the summer- normal, summer short term emergency (STE Sum), winter-normal, and winter short term emergency (STE Win), loading conditions and magnetic field calculation tables and field strength graphs calculated at one meter above ground level with 5-foot measurement intervals depicting the width of the entire right-of-way and out to 500 feet from the edge of the ROW on both sides including digital copies of all input assumptions and outputs for the calculations.
- (5) Regarding the magnetic fields, modeling of the circuit phase currents equal to the maximum average annual load estimated to be occurring on the power lines within ten years after the proposed Project is put in operation and magnetic field calculation tables and field strength graphs calculated at one meter above ground level with 5-foot measurement intervals depicting the width of the entire ROW and out to 500 feet from the edge of the ROW on both sides, including digital copies of all input assumptions and outputs for the calculation.
- (6) Regarding the magnetic fields, modeling of a “base case” with the circuit phase currents equal to the maximum average annual load currently estimated to be occurring on the existing power lines within the ROW (without construction or operation of the proposed Project) and magnetic field calculation tables and field strength graphs calculated at one meter above ground level with 5-foot measurement intervals depicting the width of the entire ROW and out to 500 feet from the edge of the ROW on both sides, including digital copies of all input assumptions and outputs for the calculations.

### 3.36 Gas Interconnection (Exhibit 36)

This requirement is not applicable to the Excelsior Energy Center, as there is no gas interconnection included in the proposed Project. Therefore, this information will not be included in the Application.

### 3.37 Back-up Fuel (Exhibit 37)

This requirement is not applicable to the Excelsior Energy Center, as there is no back-up fuel required for the proposed Project. Therefore, this information will not be included in the Application.

### 3.38 Water Interconnection (Exhibit 38)

This requirement is not applicable to the Excelsior Energy Center, as there is no public water supply interconnection required for the operation of the proposed Project. Therefore, this information will not be included in the Application.



### 3.39 Wastewater Interconnection (Exhibit 39)

This requirement is not applicable to the Excelsior Energy Center, as there is no municipal wastewater interconnection required for the operation of the proposed Project. Therefore, this information will not be included in the Application.

### 3.40 Telecommunications Interconnection (Exhibit 40)

The Project will require telecommunication services to support remote monitoring services. Exhibit 40 of the Application will describe the required bandwidth for this purpose, where physical connection would need to occur, what data networks and service providers are able to provide this service, the physical labor that would be required to provide this service, and the status of discussions and negotiations with service providers, if necessary.

Excelsior Energy Center anticipates that NYPA will use a fiber system to communicate with and monitor the 345kV switchyard. As part of developing the Application, Excelsior Energy Center will consult with NYPA on its communication requirements. The results and data collected as a result of this coordination with NYPA will also be included in Exhibit 40 of the Application.

#### **Proposed Studies**

The Applicant proposes to collect, evaluate, and provide the following information to support and prepare Exhibit 40 of the Application in accordance with 16 NYCRR § 1001.40:

- (a) A detailed description of the proposed telecommunications interconnection, including all interconnecting facilities, line route, design details, size, functions, and operating characteristics.
- (b) An analysis demonstrating that there will be sufficient capacity to support the requirements of the Project.
- (c) A description of the status of negotiations, or a copy of agreements that have been executed, with companies or individuals for providing the communications interconnection including any restrictions or conditions of approval placed on the Facility imposed by the provider, and a description of how the interconnection and any necessary system upgrades will be installed, owned, maintained and funded.
- (d) A description of probable environmental effects of the telecommunication interconnection to the extent information is available.

### 3.41 Applications to Modify or Build-Adjacent (Exhibit 41)

The Project is not proposed to modify, or be built adjacent to, an existing electric generating facility and therefore the requirements of Exhibit 41 are not applicable to the Project. Therefore, this information will not be included in the Application.

## 4.0 SUMMARY AND CONCLUSIONS

Excelsior Energy Center plans to submit an Application to construct a major electric generating facility, the Excelsior Energy Center, under Article 10 of the PSL. As required, the Applicant has prepared a PSS the purpose of which is to describe the Project, based upon reasonably available information and propose the methodology, scope of studies, or program of studies to be conducted in support of an Application being submitted for the Project pursuant to Article 10. In support of this PSS, the Applicant has consulted with the public, affected agencies, and other stakeholders, as required by 16 NYCRR § 1000.5(b). Such consultations have been documented in the attached Meeting Log, which has been updated and submitted to the Siting Board on a regular basis. Input from this stakeholder outreach has helped to inform this PSS. The Applicant will continue to meet with the public, affected agencies, and other stakeholders throughout the permitting process, and use that information to refine and improve the Project.

The Project Area addressed in this PSS is comprised of locations being evaluated for placement of Project facilities. As shown in Figure 1, the Project Area is comprised of approximately 3,418 acres of land located in the Town of Byron, Genesee County, New York. The Project will have a generating capacity of 280 MW solar energy center and a 20 MW / 4-hour duration energy storage system of power located on leased and/or purchased land from owners of private property. Within the Project Area, it is anticipated that the proposed energy center would comprise an area of approximately 1,500-2,000 acres of land. The Applicant intends to construct, own, operate, and maintain all components of the Project.

Project facilities will include energy storage infrastructure, commercial-scale solar arrays, access roads, energy storage, fencing, inverters, buried (and possibly overhead) electric collection lines, and electrical interconnection facilities. Excelsior Energy Center's interconnection facilities will include a collection substation, tap line several hundred feet long and within the Project Area, and 345kV switchyard. The 345kV switchyard, as noted previously, will be transferred to NYPA to own, maintain, and operate. The proposed collection substation and interconnection facilities will be located on land within the Project Area, adjacent to NYPA's existing 345 kV Line #NR2 between Niagara and N. Rochester substations.

The proposed Project will have significant positive socioeconomic impacts in the Project Area, in Genesee County and beyond, through employment opportunities, specifically by generating

temporary development and construction employment. In addition, payments to the municipalities are to be discussed and negotiated through development of a PILOT agreement and/or Host Community Agreement. Excelsior Energy Center will coordinate with municipal officials and provide an update on the status of these agreements as part of the Application.

By adding 280 MW of clean, renewable, solar power into the New York State energy market, the Project is consistent with the 2015 New York State Energy Plan and instrumental in enabling the State to meet the 2030 targets of 40% reduction in greenhouse gas emissions from 1990 levels and 70% of electricity generation from renewable energy sources, zero emissions from the electric sector by 2050, as well as development of 6 GW of solar energy by 2025. The Project will also improve fuel diversity within New York State by increasing the amount of electricity produced by solar generation facilities.

As solar energy generates electricity without emitting pollutants, one of the greatest advantages of solar energy production is the maintenance of air quality. While very minor levels of air emissions may be produced during construction activities, this technology allows for production of electricity without creating any gaseous, liquid, or solid wastes, and therefore eliminates the need to treat, collect, transport and dispose of such waste in any significant amount.

The Applicant has endeavored to provide as much information relative to the Project as is reasonably available per 16 NYCRR § 1000.5 (l). Table 3 below provides an overview of the PSL 100.5 (l) requirements and the corresponding section within this PSS where the information has been addressed.

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section      | Article 10 PSS Requirement  | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS  | Notes  |
|----------------------------|---|---|--|
| NYCRR 1000.5<br>(l)(1)     | As much information as is reasonably available concerning the proposed Project, generally in the form (though in less detail) that it will appear in the Application;   | Section 2.0   | Sections 2.1, 2.2, 2.3, 2.4 and 2.5 contain reasonably available information related to existing conditions, potential impacts and minimization/mitigation.  |
| NYCRR 1000.5<br>(l)(2)     | A preliminary scope of an environmental impact analysis containing a brief discussion, on the basis of reasonably available information, of the following items:  | Section 3.0   | The detailed subsections of Section 3 (as described below) provide the preliminary scope of an environmental impact analysis based on reasonably available information.  |
| NYCRR 1000.5<br>(l)(2)(i)  | A brief description of the proposed Project and its environmental setting;  | Section 2.2;<br>Sections 2.3<br>and 3.03;<br>Sections 3.04,<br>3.17, 3.19,<br>3.20, 3.21,<br>3.22, 3.23,<br>3.24, 3.25,<br>3.26, 3.27 and<br>3.28 | Section 2.2 provides a brief description of the Project, Sections 2.3 and 3.03 provide locational information, while Sections 3.04, 3.17, 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 3.25, 3.26, 3.27 and 3.28 provide a brief description of its environmental setting |
| NYCRR 1000.5<br>(l)(2)(ii) | Potentially significant adverse environmental and health impacts resulting from the construction and operation of the proposed Project including also an identification of particular aspects of the environmental setting that may be affected, including any material impacts or effects identified | Section 2.2,<br>and 3.10;<br>Sections 3.15,<br>3.17, and 3.19;<br>Sections 3.12,<br>3.20, 3.21,   | Sections 2.2 and 3.10 provide general information regarding Project benefits; Sections 3.15, 3.17 and 3.19 provide information regarding potential health impacts, and Sections 3.12, 3.20, 3.21, 3.22, 3.23,  |

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section    | Article 10 PSS Requirement   | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS                                | Notes   |
|--------------------------|--|---|---|
|                          | in consultations by the public, affected agencies, and other stakeholders, and a responsive analysis by the Applicant as to those issues identified in consultations;  | 3.22, 3.23, 3.24, 3.25, 3.26, and 3.29  | 3.24, 3.25, 3.26, and 3.29 provide information concerning potential adverse environmental impacts. As of the date of the filing of this PSS, no material impacts have been identified during any consultations.           |
| NYCRR 1000.5 (l)(2)(iii) | The extent and quality of information needed for the Application to adequately address and evaluate each potentially significant adverse environmental and health impact, including existing and new information where required, and the methodologies and procedures for obtaining the new information; | Section 3.0   | Each sub-section of 3.0 of the document presents the extent and quality of information anticipated for presentation in the corresponding Exhibit of the Article 10 Application.   |
| NYCRR 1000.5 (l)(2)(iv)  | For proposed solar-powered facilities, proposed or on-going studies during pre-construction activities and a proposed period of post-construction operations monitoring for potential impacts to avian and bat species;  | Section 3.22  | Section 3.22 presents information on existing conditions and on-going pre-construction avian and bat studies, as well as proposed post construction monitoring work plan.   |
| NYCRR 1000.5 (l)(2)(v)   | A description of how the applicant proposes to avoid adverse impacts to the environment and health;  | Section 3.04, and 3.09;<br>Sections 3.12, 3.15, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, | Sections 3.04 and 3.09 provide information on impact avoidance and its role in siting of Project facilities. Sections 3.12, 3.15, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 3.26, 3.27, and 3.29 describe avoidance |

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section        | Article 10 PSS Requirement  | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS  | Notes   |
|------------------------------|---|---|---|
|                              |   | 3.24, 3.26,<br>3.27, and 3.29   | and minimization measures to the<br>environment and health.   |
| NYCRR 1000.5<br>(l)(2)(vi)   | For those adverse environmental and health<br>impacts that cannot be reasonably avoided, an<br>identification of measures proposed to mitigate<br>such impacts;   | Section 3.04,<br>and 3.09;<br>Sections 3.12,<br>3.15, 3.17,<br>3.18, 3.19,<br>3.20, 3.21,<br>3.22, 3.23,<br>3.24, 3.26,<br>3.27, and 3.29 | Sections 3.04 and 3.09 provide<br>information on impact avoidance and<br>its role in siting of Project facilities.<br>Sections 3.12, 3.15, 3.17, 3.18, 3.19,<br>3.20, 3.21, 3.22, 3.23, 3.24, 3.26,<br>3.27, and 3.29 describe avoidance<br>and mitigation measures to the<br>environment and health. |
| NYCRR 1000.5<br>(l)(2)(vii)  | Where it is proposed to use petroleum or other<br>back-up fuel for generating electricity, a<br>discussion and/or study of the sufficiency of the<br>proposed on-site fuel storage capacity and<br>supply;  | Currently not<br>applicable to<br>this Project  |   |
| NYCRR 1000.5<br>(l)(2)(viii) | A description and evaluation of applicable,<br>reasonable and available alternative locations<br>identified for the proposed Facility, including a<br>description of the comparative advantages and<br>disadvantages of the proposed and alternative<br>locations, except that a private facility applicant<br>may limit its description and evaluation of<br>alternative locations to parcels owned by, or<br>under option to, such private facility applicant or<br>its affiliates; | Section 3.09  | See Section 3.09  |



**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section      | Article 10 PSS Requirement  | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS | Notes  |
|----------------------------|---|--|--|
| NYCRR 1000.5<br>(l)(2)(ix) | If the proposed Facility affects any land or water use or natural resource of the coastal area and federal authorization or funding is necessary, a preliminary analysis of the consistency of the proposed Facility with the enforceable policies of the New York State coastal management program or, where the action is in an approved local waterfront revitalization program area, with the local program;  | Not applicable to this Project                             | The Project location is not subject to Coastal Zone Consistency analysis |
| NYCRR 1000.5<br>(l)(2)(x)  | A statement of the reasons why the primary proposed location and source, taking into account the potentially significant and adverse environmental impacts, is best suited, among the alternatives, including a "no action" alternative, to promote public health and welfare, including the recreational and other concurrent uses that the site may serve, except that a private facility applicant may limit its description and evaluation of alternative locations to parcels owned by, or under option to, such private facility applicant or its affiliates and its description and evaluation of alternative sources to those that are reasonable alternatives to the proposed Facility that are feasible considering the objectives and capabilities of the sponsor; | Section 3.09   | See Section 3.09   |

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section       | Article 10 PSS Requirement   | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS | Notes   |
|-----------------------------|--|--|---|
| NYCRR 1000.5<br>(l)(2)(xi)  | A preliminary identification of the demographic, economic and physical attributes of the community in which the Facility is proposed to be located and in which any alternative location identified is located, and a preliminary environmental justice evaluation of significant and adverse disproportionate environmental impacts of the proposed Facility and any alternative facility identified that would result from construction and operation considering, among other things, the cumulative impact of existing sources of emissions of air pollutants and the projected emission of air pollutants from the proposed or alternative facility in a manner that is in accordance with any requirements for the contents of an Article 10 preliminary scoping statement contained in 6 NYCRR Part 487 promulgated by the NYSDEC for the analysis of environmental justice issues; and | Sections 3.27<br>and 3.28                                  | See Section 3   |
| NYCRR 1000.5<br>(l)(2)(xii) | An identification of any other material issues raised by the public and affected agencies during any consultation and the response of the applicant to those issues.   | Appendix A   | As of the date of filing this PSS, no material issues related to the Article 10 process have been raised by the public or affected agencies during consultations that are not addressed by the proposed studies. However, Appendix A of the PSS includes the e most recently filed Meeting Log, |

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section  | Article 10 PSS Requirement   | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS | Notes  |
|------------------------|--|--|--|
|                        |  |  | which outlines all consultation activities conducted by the Applicant since filing the PIP.                          |
| NYCRR 1000.5<br>(l)(3) | An identification of all other state and federal permits, certifications, or other authorizations needed for construction, operation or maintenance of the proposed Facility;  | Sections 3.32 and 3.33                                     | Section 3.32 addresses state laws and regulations. Section 3.33 addresses anticipated federal permits and approvals. |
| NYCRR 1000.5<br>(l)(4) | A list and description of all state laws and regulations issued thereunder applicable to the construction, operation or maintenance of the proposed Facility and a preliminary statement demonstrating an ability to comply;   | Section 3.32   | Section 3.32 addresses state laws and regulations.   |
| NYCRR<br>1000.5(l)(5)  | A list and description of all local laws, and regulations issued thereunder, applicable to the construction, operation, or maintenance of the proposed Facility and a statement either providing a preliminary assessment of an ability to comply or indicating specific provisions that the applicant will be requesting the Board to elect not to apply, in whole or in part, and a preliminary explanation as to why the Board should elect not to apply the specific provisions as unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality; | Section 3.31   | Section 3.31 addresses local laws and ordinances.  |

**Table 3. Content of Excelsior Energy Center PSS**

| 16 NYCRR §<br>Section  | Article 10 PSS Requirement   | Corresponding<br>Section of the<br>Excelsior Energy<br>PSS | Notes   |
|------------------------|--|--|---|
| NYCRR 1000.5<br>(l)(6) | A description of the applicant, its formation, status, structure, holdings, affiliate relationships, powers (including whether it has or will seek to obtain the power of eminent domain, either directly or indirectly), franchises and consents;   | Sections 2.1 and 3.01                                      | Sections 2.1 and 3.01 provide information on the Applicant, its parent company, and its formation. The Applicant does not plan to seek to obtain the power of eminent domain. |
| NYCRR 1000.5<br>(l)(7) | A description of the applicant's property rights and interests or those it proposes to acquire to all lands of the proposed Facility and any private or public lands or private or public streets, highways or rights-of-way crossed by any interconnections necessary to serve the Facility such as, but not limited to, electric lines, gas lines, water supply lines, waste water or other sewage treatment facilities, communications and relay facilities, access roads, rail facilities, or steam lines; and | Section 3.13   | Section 3.13 provides information concerning the Applicant's property rights and interests.   |
| NYCRR 1000.5<br>(l)(8) | Any other information that the Applicant may deem to be relevant.  | Throughout the PSS document                                | The document contains additional information beyond the base requirements of PSL 1000.5. Any other information deemed relevant by the Applicant has been included in the PSS. |

## 5.0 REFERENCES

- Autin, W. J., Noll, M., & Zollweg, J. E. (2003). Black Creek Watershed: state of the basin report. SUNY College at Brockport. Accessed July 10, 2019 online at: <http://www.blackcreekwatershed.org/bcstate.htm>.
- Browne, S., et. al. 1995. *New York State Freshwater Wetlands Delineation Manual*. July 1995. Accessed July 9, 2019 online at: [https://www.dec.ny.gov/docs/wildlife\\_pdf/wdelman.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/wdelman.pdf)
- Bryce, S.A., Griffith, G.E., Omernik, J.M., Edinger, G., Indick, S., Vargas, O., and Carlson, D. 2010. *Ecoregions of New York* (color poster with map descriptive text, summary tables, and photographs): Reston, Virginia, U.S. geological Survey, map scale 1:1,250,000. Accessed June 24, 2019 online at: [http://ecologicalregions.info/data/ny/NY\\_front.pdf](http://ecologicalregions.info/data/ny/NY_front.pdf).
- Byron, Town of. 2018. *Town of Byron Comprehensive Plan*. Accessed July 9, 2019 online at: <https://www.byronny.com/documents/ByronDraftCompPlan-5-4-18.pdf>.
- Byron, Town of. 2013. *Town of Byron Zoning Law of 2013*. Accessed July 3, 2019 online at: <https://www.byronny.com/documents/2013%20Zoning%20Law.pdf>
- Edinger, G.J., D.J. Evans, S. Gebauer, T.G. Howard, D.M. Hunt, and A.M. Olivero (editors). 2014. *Ecological Communities of New York State. Second Edition*. A revised and expanded edition of Carol Reschke's Ecological Communities of New York State. New York Natural Heritage Program, New York State Department of Environmental Conservation, Albany, NY.
- Environmental Laboratory. 1987. *Corps of Engineers Wetland Delineation Manual*. Technical Report Y-87-1. U.S. Army Corps of Engineers: Waterways Experiment Station; Vicksburg, MS.
- Government of Ontario. Species at Risk in Ontario (SARO) List: Rainbow Mussel. 2019. Available at: <https://www.ontario.ca/page/species-risk-ontario#section-6>. Accessed August 2019.
- Historical Ecology of Onondaga Lake. Wetland: Northern White-cedar Swamp. 2019. Available at: <https://onondagalakehistoricalecology.weebly.com/northern-white-cedar-swamp.html>. Accessed August 2019.

National Wetland Inventory (NWI). (2019). *U.S. Fish and Wildlife Service Wetlands Mapper*. Accessed June 27, 2019 online at: <http://www.fws.gov/wetlands/data/mapper.HTML>

Natural Heritage & Endangered Species Program (NHESP). Massachusetts Division of Fisheries & Wildlife: Bald Eagle Fact Sheet. 2016. Available at: <https://www.mass.gov/files/documents/2016/08/rf/haliaeetus-leucocephalus.pdf>. Accessed August 2019.

New York Archaeological Council (NYAC). 1994. *Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State*. Accessed online July 9, 2019 online at: <https://nysarchaeology.org/wp-content/uploads/2013/12/NYACStandards.pdf>.

New York State Department of Environmental Conservation (NYSDEC). (1990-1999). *Herp Atlas Project* [Data file]. Retrieved from <http://www.dec.ny.gov/animals/7483.html>

NYSDEC. 1990. Division of Water Technical and Operational Guidance Series (2.1.3.). *Primary and Principal Aquifer Determinations*. Accessed July 8, 2019 online at: [https://www.dec.ny.gov/docs/water\\_pdf/togs213.pdf](https://www.dec.ny.gov/docs/water_pdf/togs213.pdf)

NYSDEC. 2008. Breeding Bird Atlas: Western & Central NY. 2000-2005 *Breeding Bird Atlas Survey*. Accessed July 8, 2019 online at: <https://www.dec.ny.gov/pubs/103459.html>

NYSDEC. 2016. *New York State Standards and Specifications for Erosion and Sediment Control*. Accessed June 26, 2019 online at: [https://www.dec.ny.gov/docs/water\\_pdf/2016nysstanec.pdf](https://www.dec.ny.gov/docs/water_pdf/2016nysstanec.pdf).

New York Natural Heritage Program. 2019. Online Conservation Guide for *Agrimonia rostellata*. Available from: <https://guides.nynhp.org/woodland-agrimony/>. Accessed August 2019.

New York State Energy Plan (SEP). 2015. *2015 New York State Energy Plan. The Energy to Lead*. Accessed July 9, 2019 online at: <https://energyplan.ny.gov/Plans/2015>.

New York State Standards and Specifications for Erosion and Sediment Control (Blue Book). Accessed June 26, 2019 online at: <http://www.dec.ny.gov/chemical/29066.html>

- Terry, David B., et al. 1984. *Geohydrology of the Glacial-Outwash Aquifer in the Batavia Area, Tonawanda Creek, Genesee County, New York*. Water-Resources Investigations Report 85-4096. Accessed July 8, 2019 online at: <https://pubs.er.usgs.gov/publication/wri854096>
- United States Department of Agriculture, Natural Resources Conservation Service (NRCS). 2019. *Web Soil Survey*. Accessed July 9, 2019 online at: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>.
- United State Army Corps of Engineers (USACE). 1999. *The Highway Methodology Workbook Supplement*. Accessed July 9, 2019 online at: <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwaySupplement6Apr2015.pdf>
- United States Census Bureau. (2015). *American Fact Finder*. Accessed March 2018 at: <http://factfinder.census.gov/>
- U.S. Department of Agriculture, Natural Resources Conservation Service. (2006). *Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin*. U.S. Department of Agriculture handbook 296. Pp 312. Accessed June 26, 2019 online at: [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs142p2\\_050898.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_050898.pdf).
- United States Environmental Protection Agency (USEPA). 1974. *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety*. March 1074.
- United State Fish and Wildlife Service (USFWS). 2019a. Environmental Conservation Online System (ECOS). *Northern Long-Eared Bat (Myotis septentrionalis)*. Accessed June 25, 2019 online at: <https://ecos.fws.gov/ecp0/profile/speciesProfile?sld=9045>.
- USFWS. (2019b). ECOS. *Eastern Massasauga (=rattlesnake) (Sistrurus catenatus)*. Accessed June 25, 2019 online at: <https://ecos.fws.gov/ecp0/profile/speciesProfile?sld=2202>.
- U.S. Geological Survey (USGS). Rickard, L.V., Isachsen, Y.W., and Fisher, D.W., 1970. National Geologic Map Database. *Geologic map of New York: New York State Museum and*

*Science Service, Map and Chart Series 15, scale 1:250,000. Niagara sheet. Accessed June 20, 2019 online at: [https://ngmdb.usgs.gov/ngm-bin/pdp/zui\\_viewer.pl?id=52679](https://ngmdb.usgs.gov/ngm-bin/pdp/zui_viewer.pl?id=52679).*

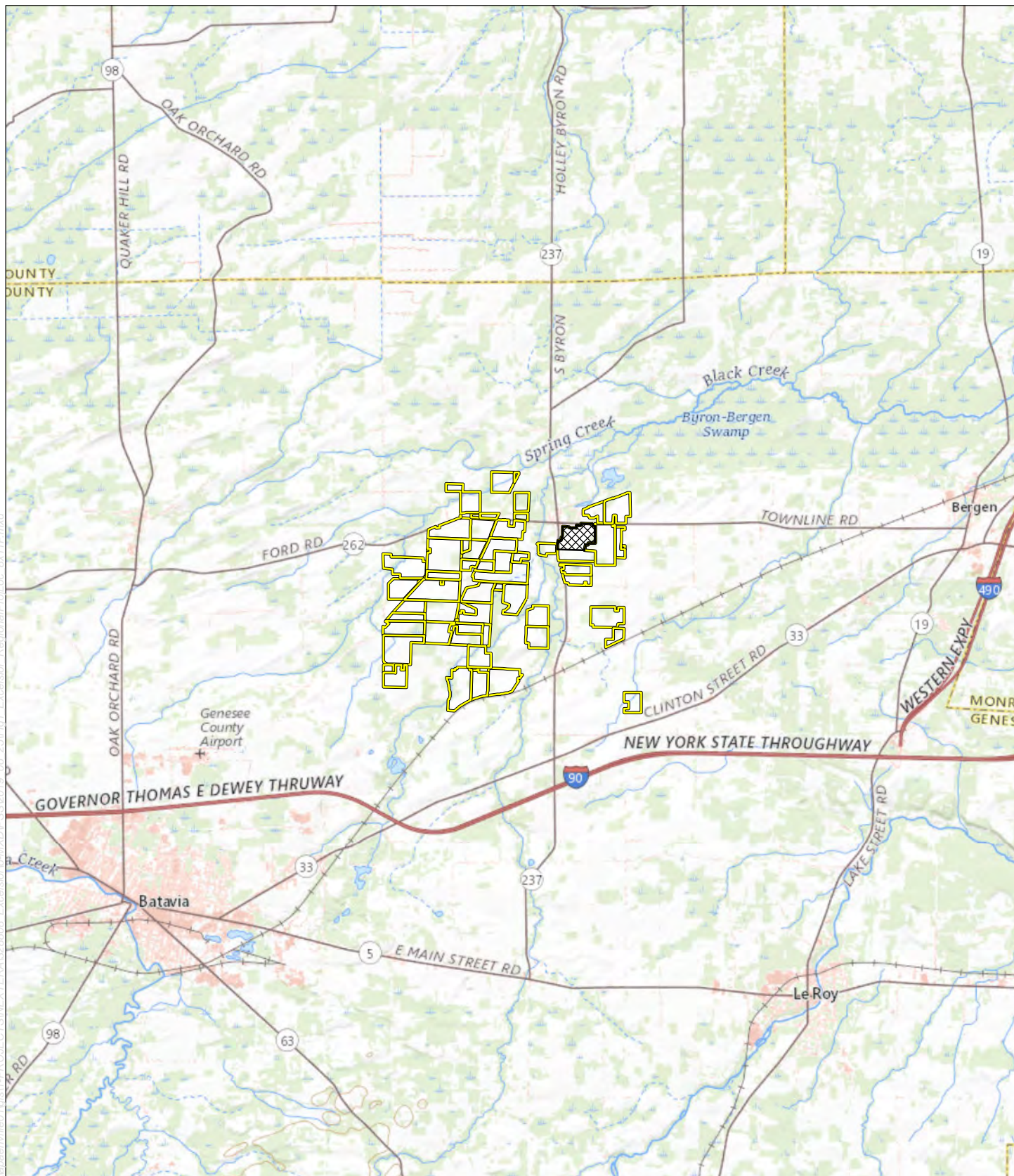
USGS. 2014. *Seismic Hazard Maps & Site-Specific Data*. United States – Lower 48. 2014 Long-term Model. Accessed June 20, 2019 online at: <https://earthquake.usgs.gov/static/lfs/nshm/conterminous/2014/2014pga2pct.pdf>.

Whitaker, J.O., Jr. and Hamilton, W.J., Jr. 1998. *Mammals of the Eastern United States*. Third Edition. Comstock Publishing Associates a division of Cornell University Press. Ithaca & London.

World Health Organization (WHO). 1999. *Guidelines for Community Noise*. Edited by Berglund, B., Lindvall, T., Schwela, D.H. Document References MNB-1 DOC2. Accessed July 9, 2019 online at: <https://infrastructure.planninginspectorate.gov.uk/document/2322958>



## Figures



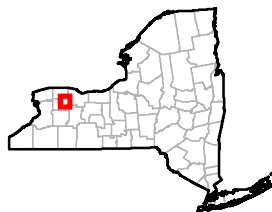
- Project Area
- Landowners Requested Exclusionary Area for Farming



0 1 2  
Miles

Base Map: USGS National Map, 2018

#### MAP LOCATION



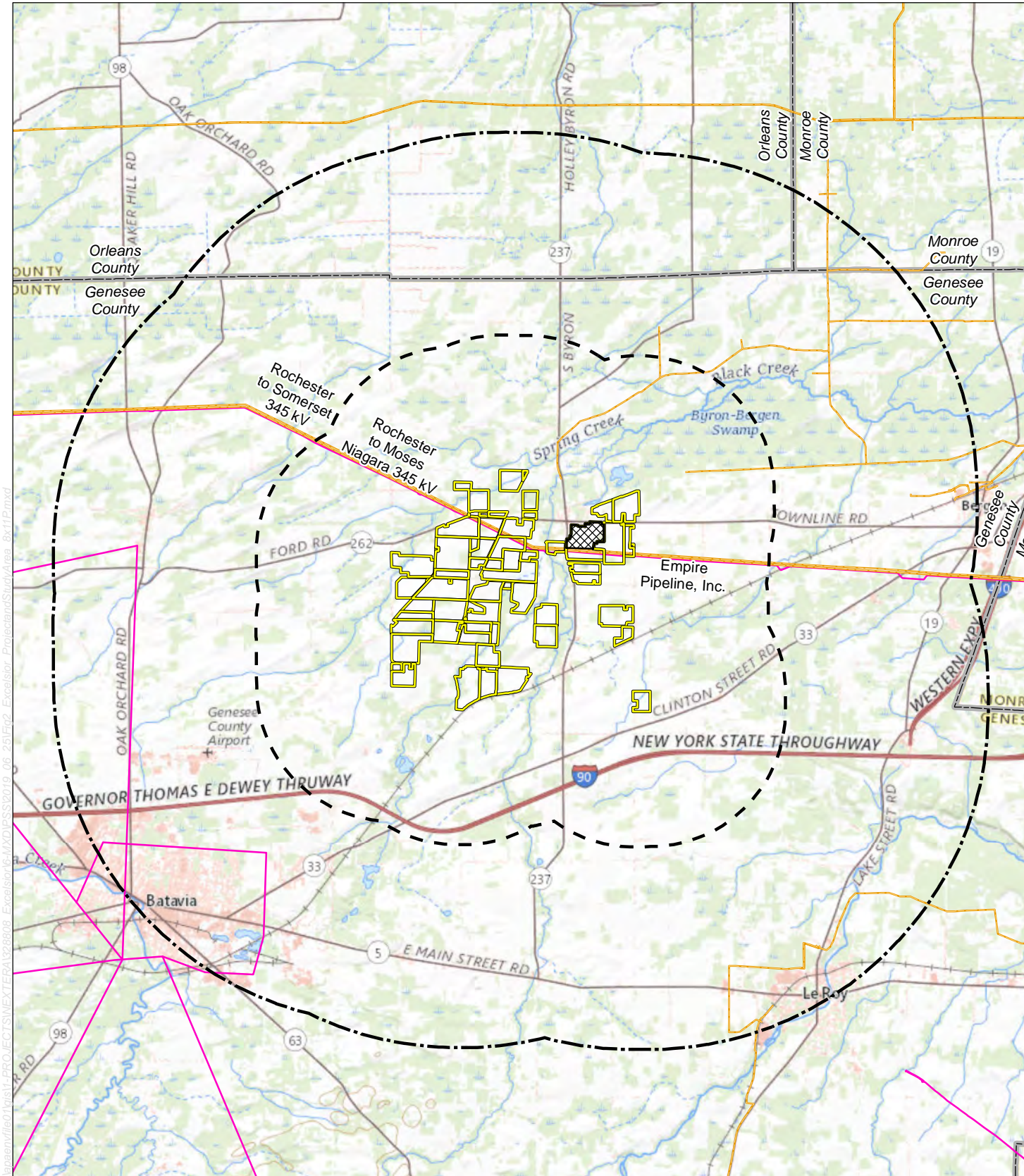
**REGIONAL PROJECT LOCATION**  
**EXCELSIOR**  
**ENERGY CENTER, LLC**  
**TOWN OF BYRON, GENESEE COUNTY, NY**

FIGURE 1

SEPTEMBER 2019

Map Produced by TRC

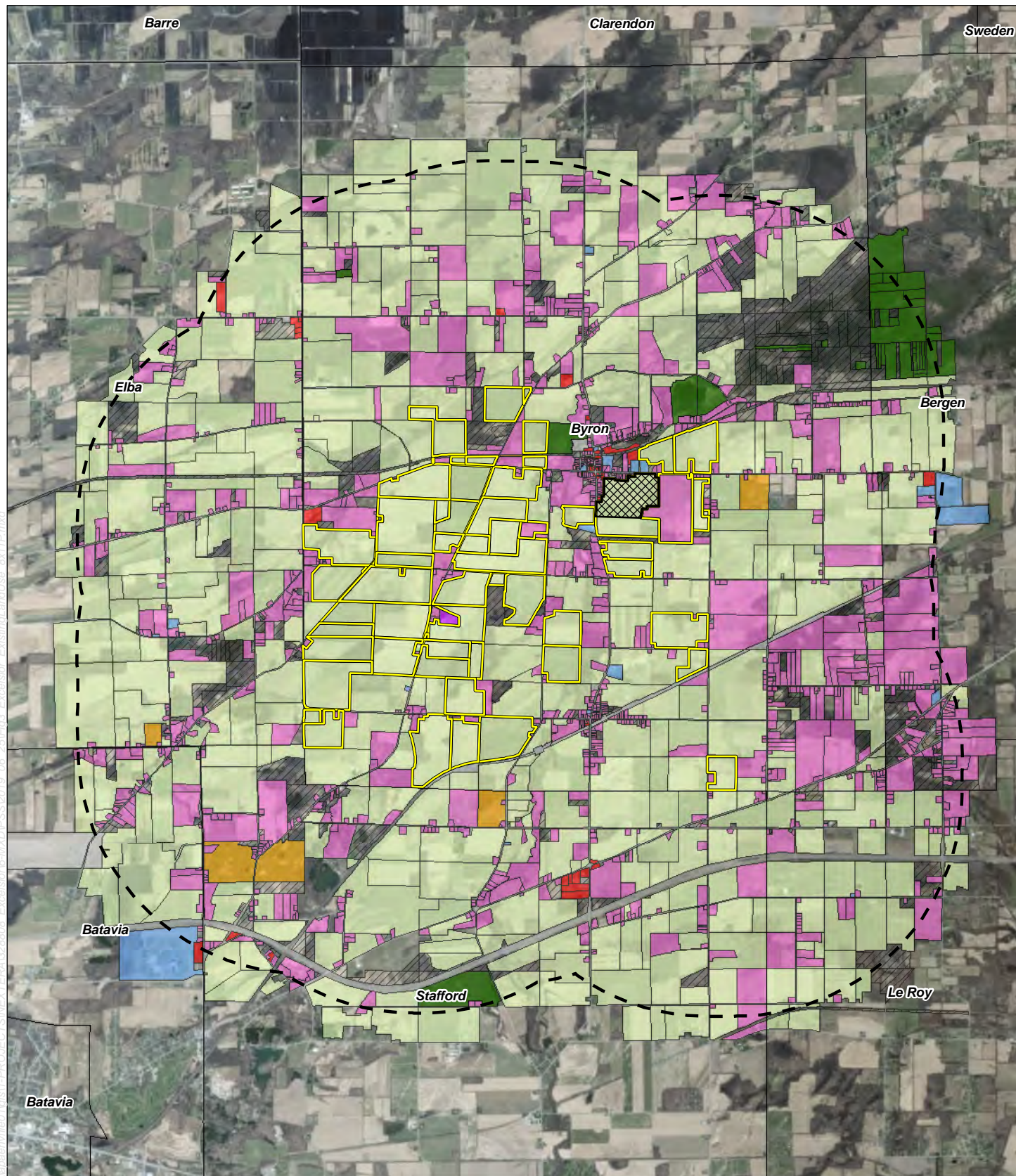




|   |                            |  |
|---|----------------------------|--|
| <p>  Project Area<br/>  Landowners Requested Exclusionary Area for Farming<br/>  2-Mile Study Area<br/>  5-Mile Visual Study Area<br/>  Existing Transmission<br/>  Existing Pipeline<br/>  County Boundary </p> <p> <small>Data: NYS GIS Program Office<br/>Base Map: USGS National Map, 2018</small> </p> | <p><b>MAP LOCATION</b></p> | <p> <br/> <b>PROJECT AREA AND STUDY AREA</b><br/> <b>EXCELSIOR</b><br/> <b>ENERGY CENTER, LLC</b><br/> <b>TOWN OF BYRON, GENESEE COUNTY, NY</b> </p> <p> <small>FIGURE 2</small>      <small>SEPTEMBER 2019</small><br/> <small>Map Produced by</small> </p> |
|---|----------------------------|--|

\\paaservfile01\pau1\PRO-JECTS\NEXTERA\22808 - Excelsior\6-AXD\IPSS\2019\_06\_25\Fig2\_Excelior\_ProjectandStudyArea\_8x11P.mxd

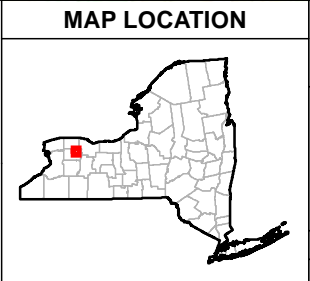




|  |   |
|--|---|
| PROJECT  | VACANT LAND                                     |
| LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING | COMMERCIAL                                      |
| 2-MILE STUDY                                       | RECREATION                                      |
| TOWN BOUNDARY                                      | COMMUNITY SERVICES                              |
| AGRICULTURAL                                       | INDUSTRIAL                                      |
| RESIDENTIAL  | PUBLIC SERVICES                                 |
|  | WILD/FORESTED/CONSERVATION LANDS & PUBLIC PARKS |

Data: Genesee County NYGIS, 2018  
 New York State Office of Real Property, 2018  
 Base Map: ESRI Basemap 'World Imagery' NYS 2015.

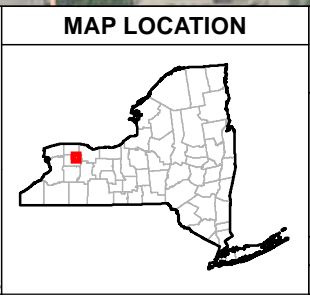
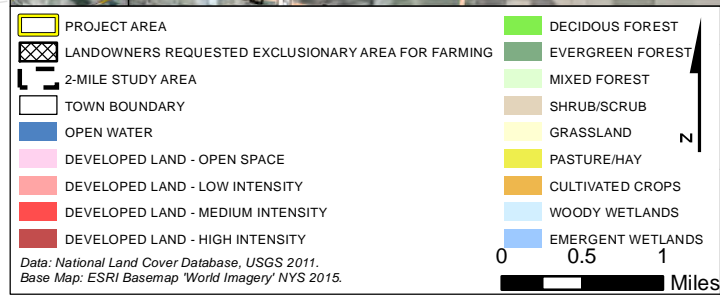
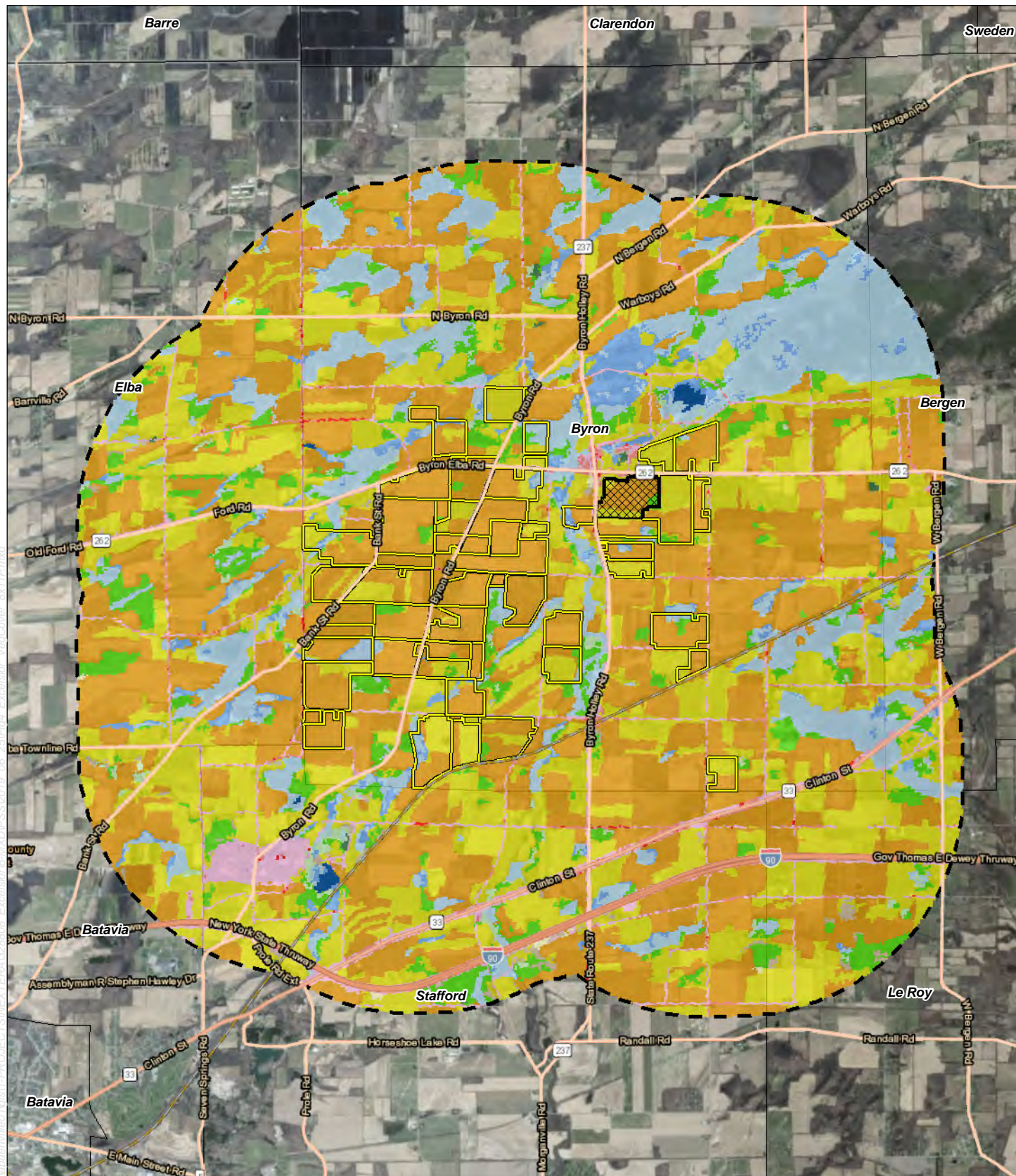
0 0.5 1 Miles




**EXISTING LAND USE**  
**EXCELSIOR**  
**ENERGY CENTER, LLC**  
**TOWN OF BYRON, GENESEE COUNTY, NY**

|                 |                |
|-----------------|----------------|
| FIGURE 3        | SEPTEMBER 2019 |
| Map Produced by |                |








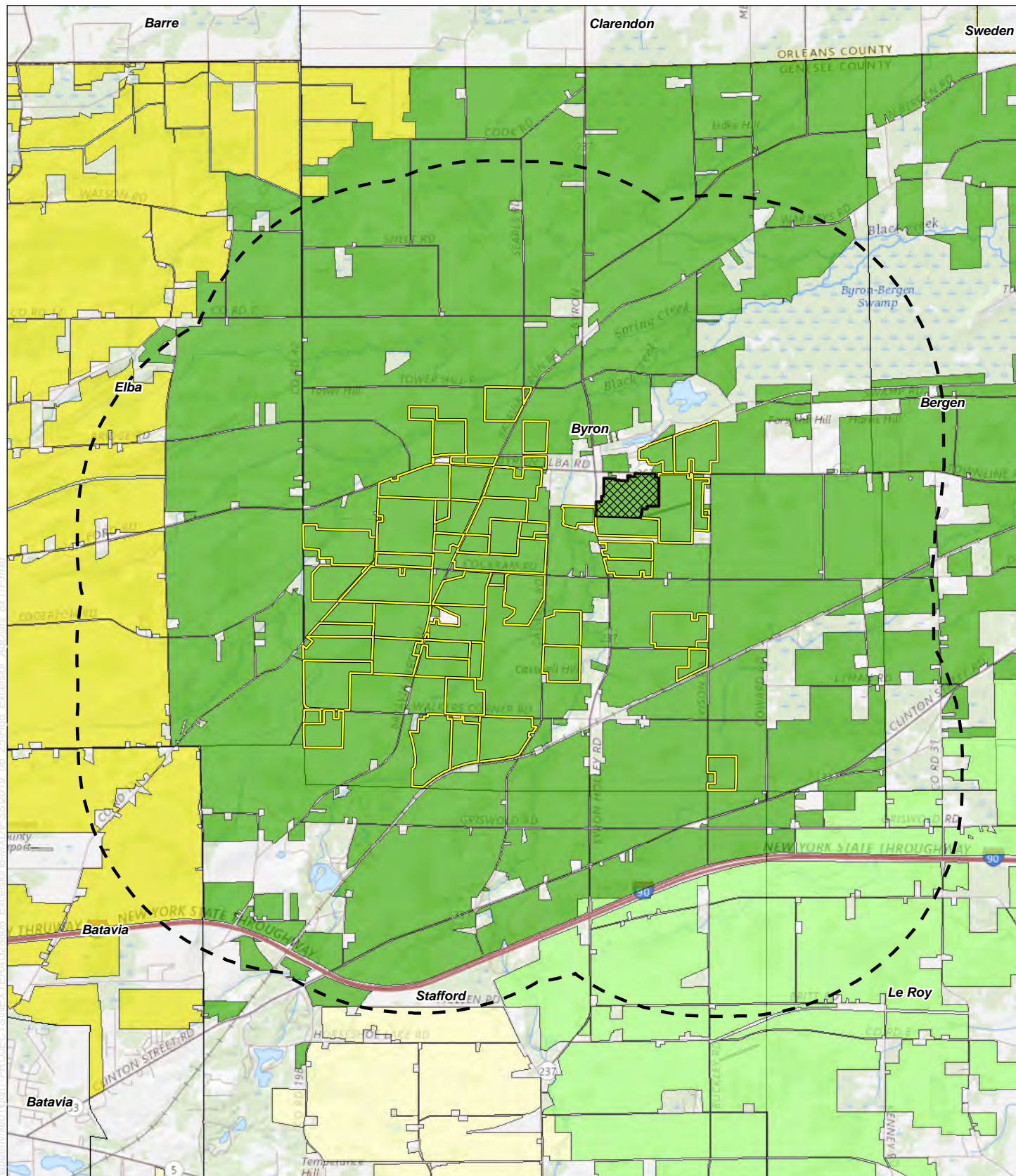
**EXISTING VEGETATED COVER  
IN THE STUDY AREA**

**EXCELSIOR  
ENERGY CENTER, LLC**

**TOWN OF BYRON, GENESEE COUNTY, NY**

|   |                |
|---|----------------|
| FIGURE 4  | SEPTEMBER 2019 |
| Map Produced by  |                |



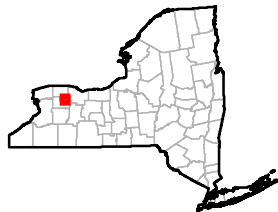


- PROJECT AREA
- LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING
- 2-MILE STUDY AREA
- TOWN BOUNDARY
- DISTRICT 1
- DISTRICT 2
- DISTRICT 3
- DISTRICT 4

Data: Agricultural Districts Mapping Program, NYS Ag and Markets, 2018  
Base Map: USGS National Map, 2018

0 0.5 1  
Miles

#### MAP LOCATION

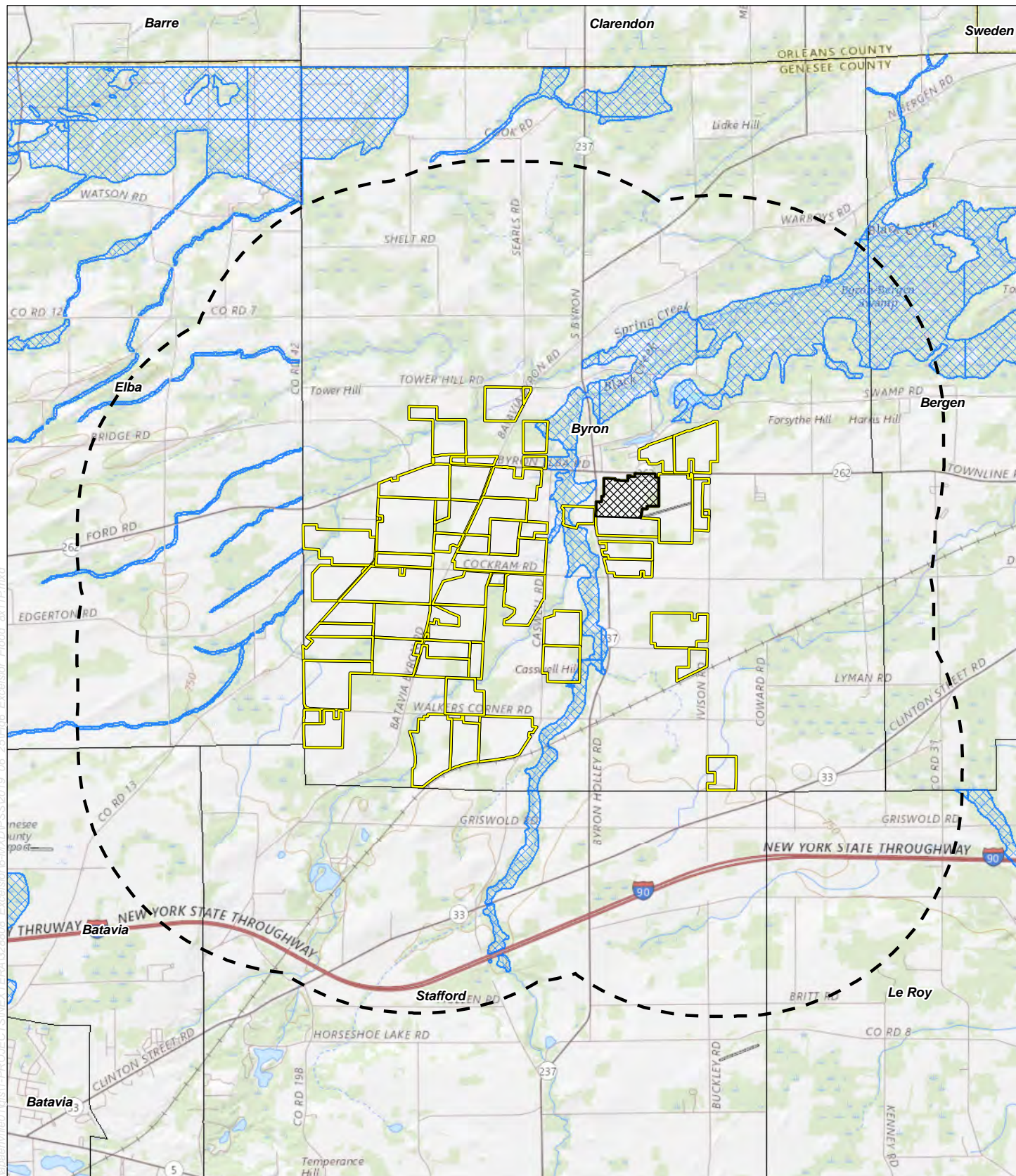


**AGRICULTURAL DISTRICTS  
IN THE PROJECT AREA**  
**EXCELSIOR  
ENERGY CENTER, LLC**  
**TOWN OF BYRON, GENESEE COUNTY, NY**

FIGURE 5 SEPTEMBER 2019

Map Produced by **TRC**



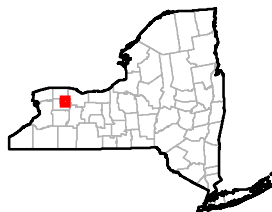


- PROJECT AREA
- LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING
- 2-MILE STUDY AREA
- TOWN BOUNDARY
- 100 YEAR FLOODPLAIN (FEMA)



0 0.5 1  
Miles

#### MAP LOCATION

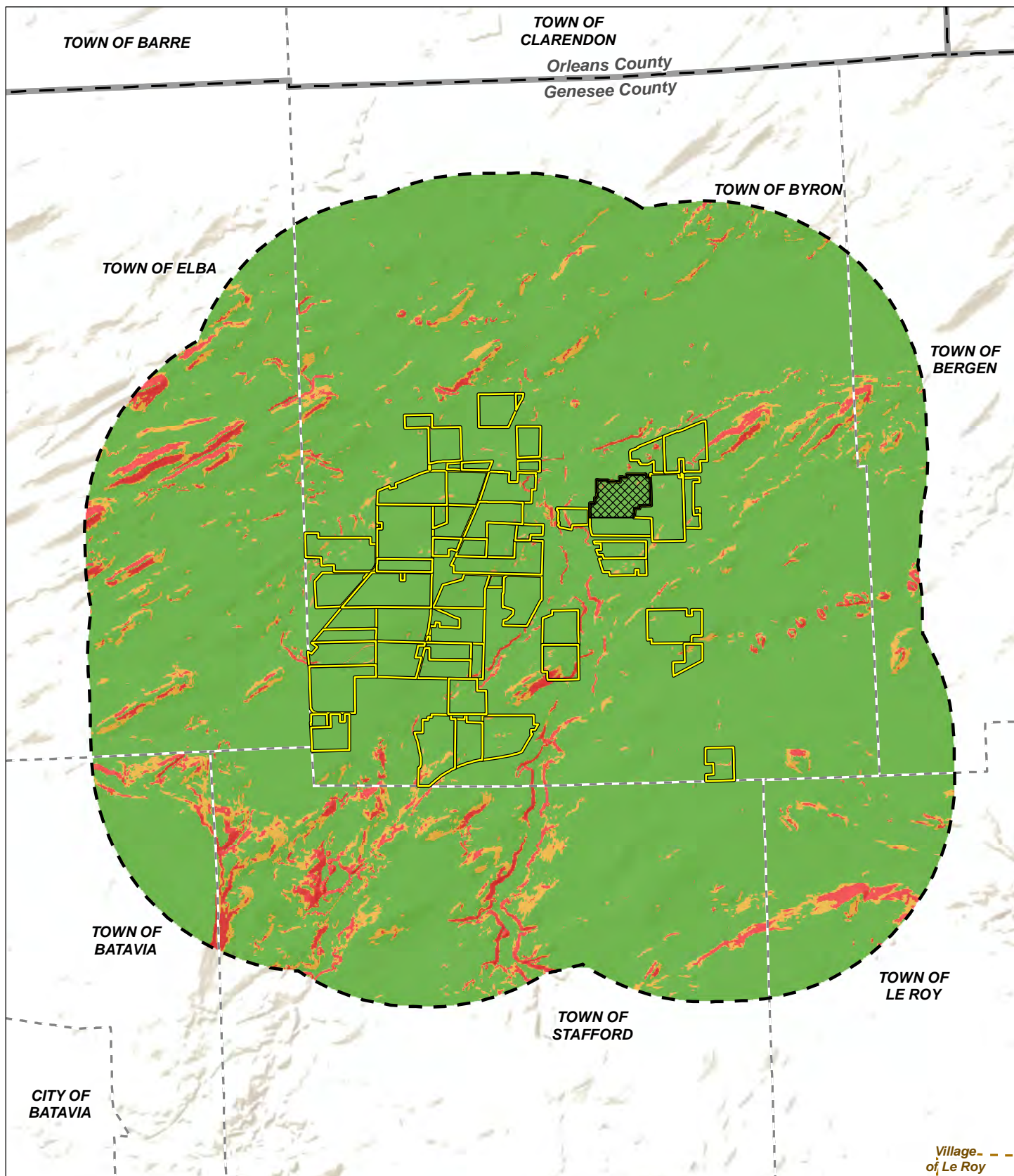


**FEMA FLOOD ZONES  
IN THE PROJECT AREA**  
**EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, GENESEE COUNTY, NY**

FIGURE 6 SEPTEMBER 2019

Map Produced by TRC





- PROJECT AREA
- LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING
- 2-MILE STUDY AREA
- 0 - 10%
- 10.01 - 15%
- 15.01+%
- VILLAGE BOUNDARY
- MUNICIPAL BOUNDARY
- COUNTY BOUNDARY

Data: USGS, 2016  
Base Map: USGS

0 1  
Mile

N



**SLOPES IN THE  
STUDY AREA  
EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, NY**

FIGURE 7

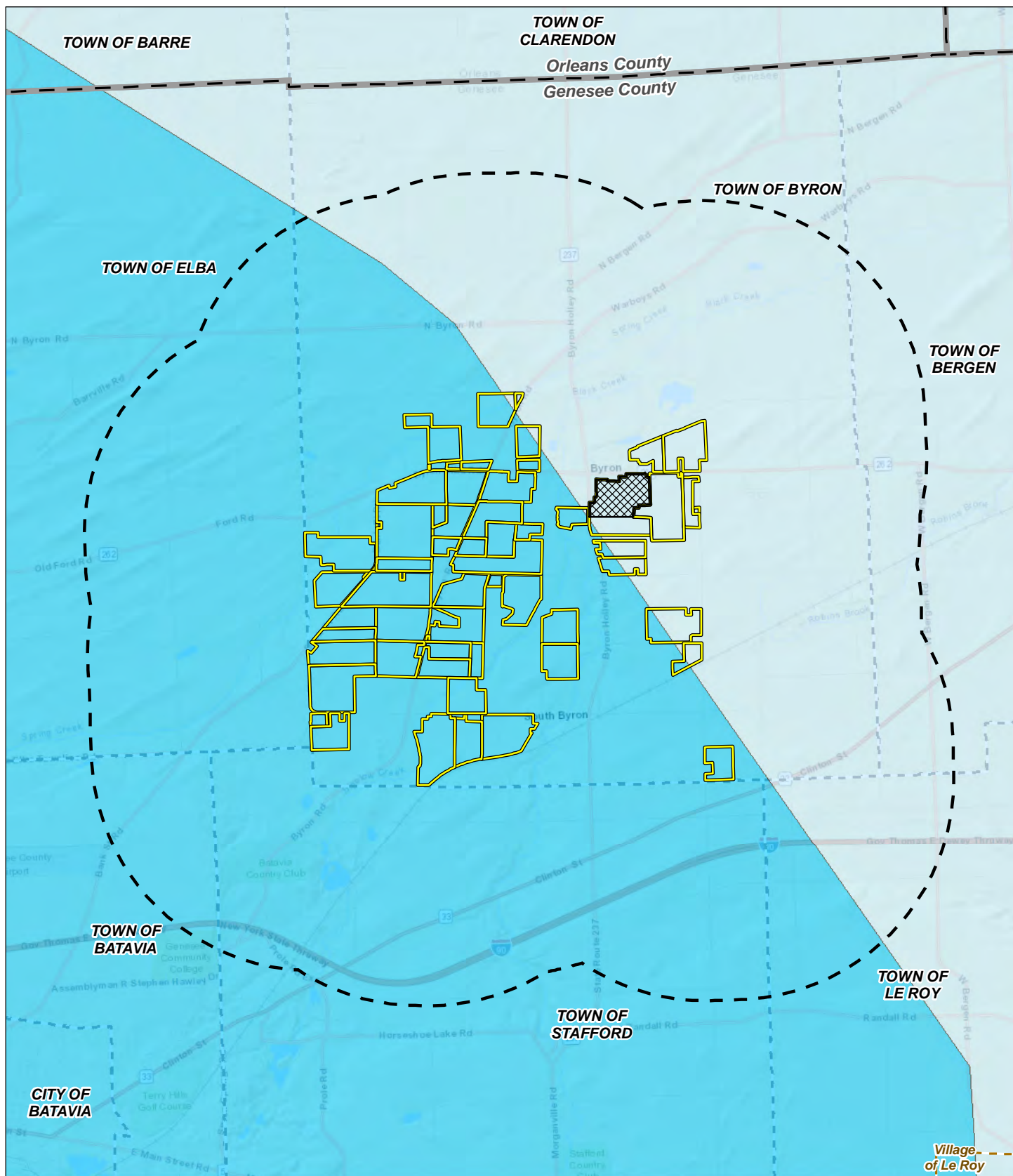
SEPTEMBER 2019

Map Produced by **TRC**









- Project Area
- Landowners Requested
- Exclusionary Area for Farming
- 2-Mile Study Area
- Village Boundary
- Municipal Boundary
- County Boundary

Peak acceleration, expressed as a percent of standard gravity (g)

- 80
- 40
- 30
- 20
- 14
- 10
- 6
- 4
- 2
- 0

Data: USGS, 2016  
Base Map: ESRI/USGS World Street Map

0 1  
Mile



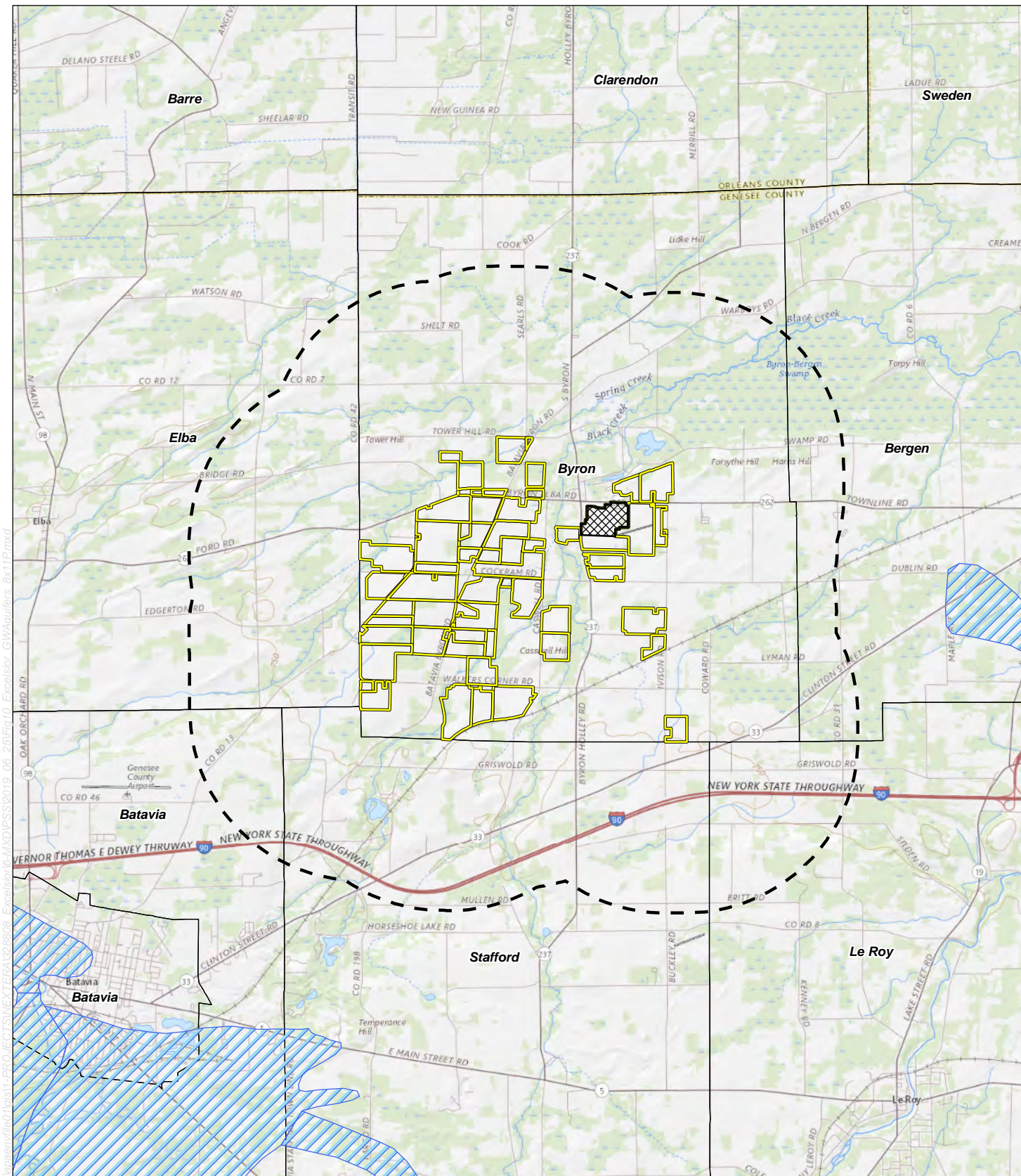
**SEISMIC HAZARD  
IN THE PROJECT AREA**  
2% PROBABILITY OF EXCEEDANCE IN 50 YEARS

**EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, NY**

FIGURE 9 SEPTEMBER 2019

Map Produced by **TRC**



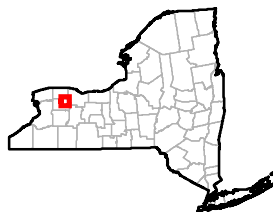


- PROJECT AREA
- LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING
- GROUNDWATER AQUIFERS
- 2-MILE STUDY AREA
- TOWN BOUNDARY



0 0.5 1  
Miles

#### MAP LOCATION

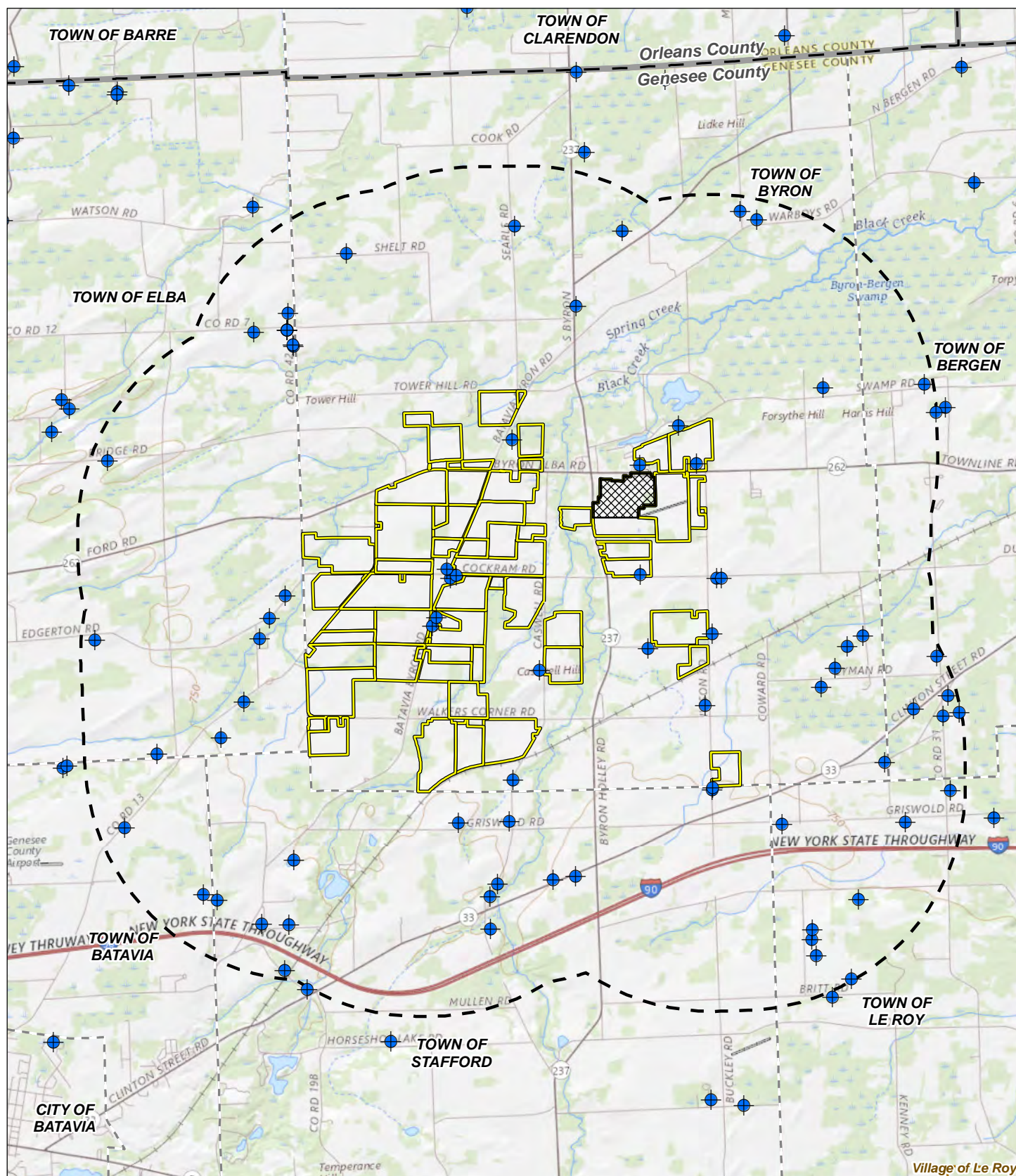


**GROUNDWATER AQUIFERS  
IN THE STUDY AREA**  
**EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, GENESEE COUNTY, NY**

FIGURE 10 SEPTEMBER 2019

Map Produced by **TRC**





- Water Wells Based on NYSDEC Mapping
- Project Area
- Landowners Requested Exclusionary Area for Farming
- 2-Mile Study Area
- Village Boundary
- Municipal Boundary
- County Boundary

Data: NYSDEC, Bureau of Water Resource Management, 2016  
Base Map: USGS National Map, 2018

0 1  
Mile



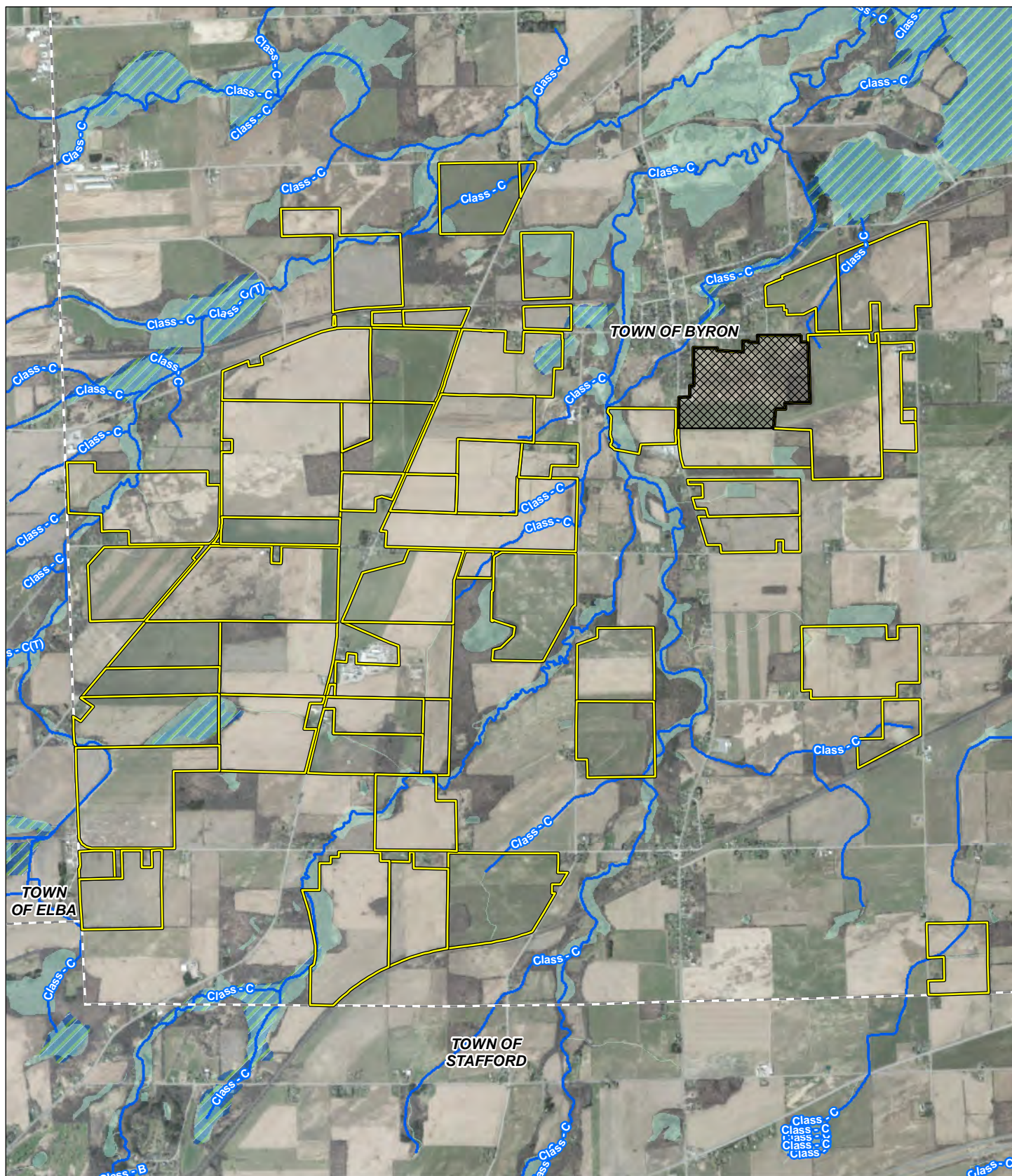
**MAPPED WATER WELLS  
IN THE STUDY AREA**  
**EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, NY**

FIGURE 11

SEPTEMBER 2019

Map Produced by TRC





- Project Area
- Landowners Requested Exclusionary Area for Farming
- Town Boundary
- County Boundary
- NYSDEC Stream Classification
- NYSDEC Wetlands
- NWI Wetlands

Data: NYSDEC, UFSWS, NWI  
Base Map: ESRI/NAIP World Imagery, 2015

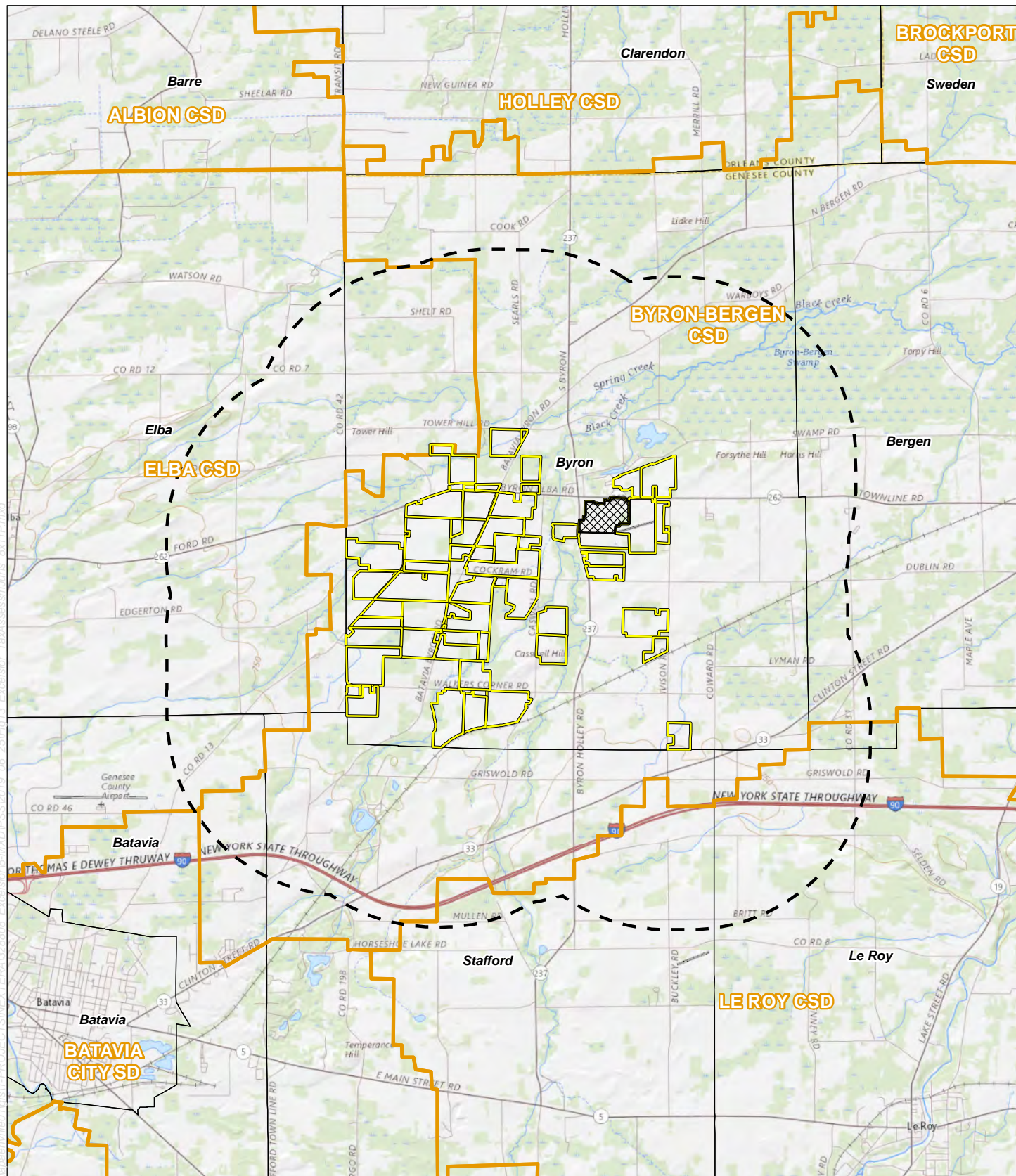
0 1  
Mile



**MAPPED STREAMS AND WETLANDS  
IN THE PROJECT AREA**  
**EXCELSIOR  
ENERGY CENTER, LLC  
TOWN OF BYRON, NY**

FIGURE 12 SEPTEMBER 2019  
Map Produced by **TRC**





|   |                            |  |
|---|----------------------------|--|
| <p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li><span style="border: 1px solid yellow; display: inline-block; width: 15px; height: 10px;"></span> PROJECT AREA</li> <li><span style="border: 1px solid black; background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px); display: inline-block; width: 15px; height: 10px;"></span> LANDOWNERS REQUESTED EXCLUSIONARY AREA FOR FARMING</li> <li><span style="border: 1px solid orange; display: inline-block; width: 15px; height: 10px;"></span> SCHOOL DISTRICTS</li> <li><span style="border: 1px dashed black; display: inline-block; width: 15px; height: 10px;"></span> 2-MILE STUDY AREA</li> <li><span style="border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> TOWN BOUNDARY</li> </ul> <p style="text-align: right;"> <br/> </p> | <p><b>MAP LOCATION</b></p> | <p style="text-align: center;"> <br/> <b>TAX ASSESSMENT JURISDICTION<br/>IN THE STUDY AREA</b><br/> <b>EXCELSIOR<br/>ENERGY CENTER, LLC</b><br/> <b>TOWN OF BYRON, GENESSEE COUNTY, NY</b> </p> <p>             FIGURE 13      SEPTEMBER 2019<br/>             Map Produced by  </p> |
|---|----------------------------|--|

Data: NYSDEC Principal Aquifers  
Base Map: USGS National Map, 2018

**Appendix A**  
**PIP Meeting Log**

**Excelsior Energy  
Center PIP Plan  
Meeting Log**

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments | Follow Up Action Items   |
|-----------|---|---|---|--|
| 8/14/2018 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra                               | Introduced and discussed project.             |  |
| 8/14/2018 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO and President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra | Introduced and discussed project.             |  |
| 1/21/2019 | Phone Call                                  | <u>NYS Assembly</u><br>Assemblyman Steve Hawley<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra  | Introduced and discussed project.             | Asked that NextEra work with his District Office COS, Eileen Banker, to set up meeting |



| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments   | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 1/22/2019 | Town of Byron                               | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussed benefits of the project and consistency with the Town's Comprehensive Plan. |                        |
| 2/5/2019  | Phone Call                                  | <u>Town of Byron</u><br>George Squires, PB member<br>Aaron Sharp, PB Chairman<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call/Voicemail                        | <u>Genesee County Legislature</u><br>Calls to each member separately<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call                                  | <u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Paul Battaglia, Chairman of Board<br>Todd Bender, member of Board<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer | Introduced and discussed project.   |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments          | Follow Up Action Items |
|-----------|---|--|--|------------------------|
| 2/11/2019 | Genesee County Economic Development Center  | <u>Genesee County Legislature</u><br>Andrew Young (District 4)<br>Gary Maha (District 9, Wards 4 & 5)<br>Gordon Dibble (District 3)<br><br><u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO and President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental) | Introduced the project and answered initial questions. |                        |
| 2/11/2019 | Town of Byron                               | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)  | Discussed project.                                     |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments                                  | Follow Up Action Items |
|-----------|---|--|--|------------------------|
| 2/12/19   | Genesee County                              | <u>Genesee County</u><br>Jay Gsell, County Manager<br>Kevin Earl, County Attorney<br>Matt Landers, Assistant County Manager<br><br><u>NextEra</u><br>Keddy Chandran , Project Developer<br>Bill Boer, Project Manager<br>(Environmental) | Introduced the project and answered initial questions.                         |                        |
| 2/12/2019 | Town of Byron                               | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental)   | Discussed upcoming Town Board Meeting and possible presentation to Town Board. |                        |
| 2/12/2019 | Town of Byron                               | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental)   | Discussed project.   |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments          | Follow Up Action Items |
|-----------|---|--|--|------------------------|
| 2/12/2019 | Genesee County                              | <u>Genesee County Legislators</u><br>Robert Bausch, Chairman (District 2)<br>Marianne Clattenberg, Vice Chairwoman (District 8)<br><br><u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental) | Introduced the project and answered initial questions. |                        |
| 2/13/2019 | Town of Byron                               | Town Board Meeting<br><br><u>NextEra Team</u><br>Keddy Chandran, Project Developer   | Cancelled due to weather.                              |                        |
| 2/19/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC), Counsel to NextEra  | Discussed status of project.                           |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments                               | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 2/19/2019 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC), Counsel to NextEra | Discussed status of project.  |                        |
| 2/22/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC), Counsel to NextEra                             | Discussed recent Town Board meeting and status of project.                  |                        |
| 3/8/2019  | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussed presenting details of the project at upcoming Town Board meeting. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments           | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 3/13/2019 | Town of Byron                               | <p>Town Board Meeting</p> <p><u>Town of Byron</u><br/>Town Board</p> <p><u>Genesee County Economic Development Center</u><br/>Steve Hyde, CEO &amp; President<br/>Jim Krencik, Director of Marketing and Communications</p> <p><u>NextEra</u><br/>Keddy Chandran, Project Developer<br/>Bill Boer, Project Manager (Environmental)<br/>Lisa Paul, Communications</p> <p>Members of Public</p> | Presentation by GCEDC describing PILOT process.         |                        |
| 3/20/2019 | Town of Byron                               | <p><u>Genesee County Economic Development Center</u><br/>Todd Bender, member of Board</p> <p><u>NextEra</u><br/>Keddy Chandran, Project Developer</p>   | Discussed NextEra, Article 10 process, and the project. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments                            | Follow Up Action Items |
|-----------|---|--|--|------------------------|
| 3/20/2019 | Town of Byron                               | Area residents<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)<br>Lisa Paul, Communications   | Discussed status of project.   |                        |
| 3/20/2019 | Genesee County Economic Development Center  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)<br>Lisa Paul, Communications   | Discussed status of project.   |                        |
| 3/21/2019 | Local dinner venue                          | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>Lisa Paul, Communications<br>Desiree Estabrook, Associate Project Manager<br><br><u>Canacre</u><br>John Ahearn, Field Manager<br>Ed Coleman, Field Specialist | Discussed status of project and timeline for planned field studies. Q&A. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 4/16/2019 | Byron-Bergen District Office                | <u>Byron-Bergen Central School District</u><br>Mickey Edwards, Superintendent<br>Lori Prinz, Business Administrator<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)                            | Discussed and introduced project.             |                        |
| 4/16/2019 | Byron Town Hall                             | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br>Jim Cudney, Town Board member<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)  | Discussed status of project.                  |                        |
| 4/18/2019 | DPS Offices                                 | <u>DPS</u><br>James Austin<br>Brian Ossias<br>Andrew Davis<br>Leka Gjonaj<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Flynn (Harris Beach PLLC), Counsel to NextEra<br>Michelle Piasecki (Harris Beach PLLC), Counsel to NextEra | Discussed and introduced project.             |                        |



| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments      | Follow Up Action Items |
|-----------|---|---|--|------------------------|
| 4/22/2019 | Phone Call/Email                            | <u>DPS</u><br>James Austin<br>James Denn<br>Lorna Gillings<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra | Provided update on planned submission of PIP Plan. |                        |
| 4/22/2019 | Phone Call                                  | <u>NYSERDA</u><br>Doreen Harris<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra                            | Provided update on planned submission of PIP Plan. |                        |
| 4/22/2019 | Phone Call                                  | <u>NYS Assembly</u><br>Assemblyman Steve Hawley<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra            | Provided update on planned submission of PIP Plan. |                        |
| 4/22/2019 | Phone Call                                  | <u>NYS Senate</u><br>Senator Michael Ranzenhofer<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra           | Provided update on planned submission of PIP Plan. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments      | Follow Up Action Items |
|-----------|---|--|--|------------------------|
| 4/23/2019 | Phone Call                                  | <u>Genesee County Legislators</u><br>Robert Bausch, Chairman (District 2)<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Provided update on planned submission of PIP Plan. |                        |
| 4/23/2019 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Provided update on planned submission of PIP Plan. |                        |
| 4/23/2019 | Phone Call/Email                            | <u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Provided update on planned submission of PIP Plan. |                        |
| 4/24/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Provided update on planned submission of PIP Plan. |                        |
| 4/30/2019 | Byron Town Hall                             | <u>Town of Byron</u><br>George Squires, PB member<br>Aaron Sharp, PB Chairman<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental) | Discussed status of project.                       |                        |

| Date              | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments   | Follow Up Action Items |
|-------------------|---|--|---|------------------------|
| 7/15/2019         | Genesee Community College                   | <u>STEM Camp</u><br>Next Era<br>Keddy Chandran, Project Developer<br>Kaitlin McCormick (TRC)<br>Joe Cartaya, Project Engineer<br>David Boxold, Project Developer<br>Daniel Marieni, Project Engineer | Gave kids a general presentation and hands-on workshop on solar development and electric circuits |                        |
| 7/16/2019         | Byron Town Hall                             | <u>Town of Byron</u><br>Roger Rouse, Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussed status of project and planned outreach.   |                        |
| 7/17/2019         | Phone call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Project Update.   |                        |
| Week of 7/22/2019 | Phone Call                                  | <u>Town of Byron</u><br>James Cudney, Board Member<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Discussing inability of Board Member to meet in person to discuss project.                        |                        |

| Date              | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments   | Follow Up Action Items  |
|-------------------|---|--|---|---|
| Week of 7/22/2019 | Phone Call                                  | <u>Town of Byron</u><br>Jeff Thompson, Board Member<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussing inability of Board Member to meet in person to discuss project.  |   |
| 7/25/2019         | Area landowner residence                    | Area Landowner<br><br><u>Canacre</u><br>John Ahearn, Field Manager<br>Ed Coleman, Field Specialist   | Discussed project concerns and impacts  |   |
| 8/5/2019          | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br>Debra Leaton, Town Clerk<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC), Counsel to NextEra                              | Discussed Open House dates and options for venue, and upcoming information package for Board Members to inform about project. | Send package and look at venues other than Town Hall for Open House |
| 8/15/2019         | South Byron Volunteer Fire Department       | <u>South Byron Volunteer Fire Department</u><br>Dean Bates, President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Michael Nozzolio (Harris Beach PLLC), Counsel to NextEra | Discuss venue, logistics, and Fire Department   | Continue planning logistics for Open House                          |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments   | Follow Up Action Items  |
|-----------|---|--|---|---|
| 8/21/2019 | Genesee County Economic Development Center  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br>Jim Krencik, Director, Marketing & Communications<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer | Project Update and planned outreach activities.   | Set a follow up meeting to discuss economic benefits.                   |
| 8/26/2019 | Letter                                      | Stakeholder List<br>DMM Party List<br>Residences within Study Area (1,986 total addresses)   | Invitation to Public Open House on 9/10/2019  |   |
| 8/28/2019 | Phone Call                                  | <u>Town of Byron</u><br>Sue Fuller, Board Member<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Discussing Town concerns with information availability.   | Send additional information to Hardware store and format of Open House. |
| 8/29/2019 | Letter                                      | All landowners directly adjacent to Project Area   | Letter describing Excelsior Energy Center and offer to schedule private meetings to answer questions and hear concerns about project. | Await responses and follow up as applicable.                            |
| 9/4/2019  | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Confirming Open House attendance and notification to expect additional information letter.  |   |

| Date     | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments                                | Follow Up Action Items |
|----------|---|---|--|------------------------|
|          |   |   |  |                        |
| 9/4/2019 | Letter/Email                                | <u>Town of Byron</u><br><u>Town Board Members</u><br><u>Zoning Board of Appeals</u><br><u>Planning Board</u><br><u>Genesee County Economic Development Center</u> | Providing further information about Project, upcoming events and milestones. |                        |

| Date      | Location of Meeting/Method of Communication   | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 9/10/2019 | South Byron Volunteer Fire Company, Byron, NY | Open House to Public<br><br>NextEra<br>Keddy Chandran, Project Developer<br>Coke Coakley, Environmental Manager<br>Bill Boer, Environmental Manager<br>Lisa Paul, Senior Communications Specialist<br>Joe Cartaya, Engineer<br>Daniel Marieni, Project Engineer<br>John Lacey (Mower), Public Relations<br>Kaitlin McCormick (TRC), Environmental Consultant<br>Rachel Silva (TRC), Environmental Consultant<br>Michelle Piasecki (Harris Beach PLLC), Co-Counsel to NextEra<br>Michael Nozzolio (Harris Beach PLLC), Co-Counsel to NextEra<br>Sam Laniado (Read Laniado), Co-Counsel to NextEra<br>John Ahearn (Cancare), Field Manager<br>Ed Coleman (Cancre), Field Specialist | Open House                                    |                        |

| Date                | Location of Meeting/Method of Communication   | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments   | Follow Up Action Items |
|---------------------|---|---|---|------------------------|
| 9/10/2019           | South Byron Volunteer Fire Company, Byron, NY | Various participating landowners<br>Adjacent landowner<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>John Ahearn (Cancare), Field Manager | Discuss concerns and mitigation solutions.  | Continue discussions.  |
| 9/11/2019           | Town of Byron Town Board Meeting              | Town Board Meeting<br><br><u>Town of Byron</u><br>Town Board<br><br><u>NextEra</u><br>Bill Boer, Project Manager (Environmental)<br><br>Members of Public | Discussion of project area, Article 10 process, intervenor funding, and answering questions from the Board and members of the public. |                        |
| 4/30/2019-9/13/2019 | Various                                       | Various participating landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Project updates and study coordination  |                        |



| Date                | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments | Follow Up Action Items   |
|---------------------|---|---|---|--------------------------|
| 8/29/2019-9/13/2019 | Various                                     | Various landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>John Ahearn (Cancare), Field Manager<br>Ed Coleman (Cancare), Field Specialist | Answer questions and listen to concerns.      | Follow up as applicable. |
|                     |   |   |   |                          |

**Appendix B**  
**Copy of PSS Notice**

**Excelsior Energy Center, LLC**  
**Case 19-F-0299**  
**280 Megawatt Solar Photovoltaic Generating Project and 20 Megawatt Energy Storage System**  
**Genesee County, New York**

**NOTICE OF SUBMISSION OF PRELIMINARY SCOPING STATEMENT**

Excelsior Energy Center, LLC (Excelsior Energy Center) is seeking authority from the New York State Board on Electric Generation Siting and the Environment (the Siting Board) to construct a 280 megawatt (MW) solar photovoltaic electric generating facility and a 20 MW energy storage system (the Project) in the Town of Byron, Genesee County, New York, pursuant to Article 10 of the New York State Public Service Law (PSL). Excelsior Energy Center hereby provides notice that it will file a Preliminary Scoping Statement (PSS) with the Siting Board on or about September 23, 2019. The PSS will summarize the proposed scope of studies that Excelsior Energy Center will undertake, the results of which will form the basis of its Application to the Siting Board. By this Notice, Excelsior Energy Center seeks input from the public, interested agencies, and municipalities on the scope and methodology of studies to be conducted pursuant to the PSS.

The Project components will include solar arrays, access roads, buried (and possibly overhead) electric collection lines, energy storage, and electrical interconnection facilities. Additional Project facilities consist of a new collection substation and 345 kV switchyard, which will be transferred to the New York Power Authority (NYPA) to own, maintain, and operate. The proposed collection substation and interconnection facilities will be located on land adjacent to NYPA's 345 kV Line between Niagara and N. Rochester substations. The Project is proposed to be constructed on land leased from private landowners.

The Project will safely generate enough clean, renewable electricity to power approximately 67,000 households. As a renewable resource, the Project will also avoid harmful emissions and other adverse impacts associated with traditional fossil-fueled generating facilities, and will be compatible with New York State's policies promoting renewable energy, including the 2015 State Energy Plan (SEP), the 2016 Clean Energy Standard (CES), and the recently enacted Climate Leadership and Community Protection Act, which collectively require at least 70% of the State's electricity to be derived from renewable resources by 2030, elimination of emissions from the electric sector by 2040, and development of 6,000 MW of solar energy by 2025.

Excelsior Energy Center anticipates that the Project will not have negative impacts on health, air, or water resources. Potential visual, wildlife, and agricultural impacts will be mitigated to the maximum extent practicable.

The PSS precedes the formal public scoping process and, based upon reasonably available information, describes and/or identifies the scope of review and studies that will be conducted under Article 10, including, among other things: the environmental setting of the Project Area, the potential environmental impacts associated with construction and operation of the Project; proposed benefits of the Project; proposed studies (including preconstruction studies and post-construction monitoring); security; decommissioning; proposed measures to avoid, mitigate, or minimize any potential environmental impacts; other required permits and authorizations; and other relevant information specified by law.

With the PSS, Excelsior Energy Center will also submit \$98,000 in intervenor funding, at least 50% of which is reserved for municipal parties. Interested parties may apply for intervenor funding to be used to pay for such things as administrative, attorney, and/or consultant fees to assist in participating in the Article 10 process. A guide to applying for intervenor funding can be found on the Siting Board's website at

[http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/6fd11ce8db088a2785257e200054a99b/\\$FILE/Guide%20to%20Intervenor%20Funding%201-30-18.pdf](http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/6fd11ce8db088a2785257e200054a99b/$FILE/Guide%20to%20Intervenor%20Funding%201-30-18.pdf).

Within 21 days after the PSS is filed, any person, agency, or municipality may submit comments on the PSS by serving such comments on the Applicant at the address below and filing a copy with the Secretary to Siting Board. Comments must reference Case 19-F-0299 and may be submitted in writing to Hon. Kathleen H. Burgess, Secretary to the Siting Board, New York State Public Service Commission, Agency Building 3, Albany, NY 12223-1350 or electronically to [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov). Any interested person may also file a request with the Secretary to receive copies of all notices concerning the Project, including notices regarding pre-application stipulations. Documents filed in this proceeding may also be viewed on the DPS website at [www.dps.ny.gov](http://www.dps.ny.gov) by clicking on "Search" under the "Index" section at the bottom of the homepage and then entering "19-F-0299" in the "Search by Case Number" field.

The Applicant will prepare a summary of the material comments and any reply thereto within 21 days after the comment period is closed. The summary and responses will be filed and served in the same manner as the PSS.

Not less than 22 days after the PSS is filed, an Administrative Law Judge (ALJ) will hold a conference to, among other things, initiate the stipulation process in which Excelsior Energy Center and other parties may negotiate and agree upon refining studies, and other issues to be addressed in the Article 10 Application. The ALJ will also issue a notice of availability of pre-application intervenor funds providing a schedule and instructions on how interested parties may apply for such funds. Requests for intervenor funds are due within 30 days of issuance of the notice. A pre-application meeting will also be convened to consider funding requests no less than 45 but no more than 60 days after filing of the PSS.

Excelsior Energy Center will use the results of the studies it conducts to prepare the Application, which will be filed no less than 90 days after the PSS is filed. The Application will include a description of the Project, and evaluation of the environmental and health impacts and avoidance/mitigation measures, a summary of public involvement activities, a statement of why any local laws or ordinances should not be applied, electrical interconnection and system reliability studies security and emergency plans, a statement demonstrating compliance with the most recent State Energy Plan, and other relevant information. The Application will also include such other information as required by the Siting Board's rules (16 NYCRR § 1001.1–1001.41) unless inapplicable or waived by the Siting Board.

The Siting Board will then determine whether the Application is compliant with filing requirements. Once it is deemed compliant, the PSL requires that the Siting Board render a decision on the Application within 12 months. Additional intervenor funds of \$280,000 will accompany the Application. Once the Application is deemed compliant, the Presiding Examiner will schedule a pre-hearing conference to identify intervenors, award intervenor funds, identify issues for the hearing, and establish a case schedule. The case schedule will include notice of the scheduling of a public hearing. The Siting Board will also issue a notice of availability of intervenor funds. After the hearings, intervenors may submit briefs to the ALJs, who will then issue a recommended decision upon which the Siting Board, in turn, will render its decision.

The Article 10 Application review process affords stakeholders and other interested parties ample opportunities to participate and ask questions and share comments, concerns, and knowledge with the Siting Board, including participation in and presentation of evidence at administrative hearings, all of which will be considered by the Siting Board in deciding whether to approve the Project. Additional information on how to participate in Siting Board matters may be obtained by contacting Excelsior Energy Center's project representative or the Siting Board Public Information Coordinator:

Excelsior Energy Center Project Representative

Keddy Chandran

NextEra Energy Resources

700 Universe Blvd, FEW/JB

Juno Beach, FL 33408

Telephone: (561) 691-7274

Fax: (561) 304-5404

Email: [Keddy.Chandran@nexteraenergy.com](mailto:Keddy.Chandran@nexteraenergy.com)

Siting Board Public Information Coordinator

James Denn

NYS Department of Public Service

3 Empire State Plaza

Albany, NY 12223

(518) 474-7080

Email: [james.denn@dps.ny.gov](mailto:james.denn@dps.ny.gov)

To find more information, please go to the Siting Board's website at [www.dps.ny.gov/SitingBoard](http://www.dps.ny.gov/SitingBoard), the Project website at <https://www.excelsiorenergycenter.com/>, or call the Project's toll-free number at 800-674-8613.

Copies of the PSS will also be available for review at the following local repositories:

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

## **Appendix C**

### **PIP Plan**

## **PUBLIC INVOLVEMENT PROGRAM PLAN**

**Excelsior Energy Center  
Town of Byron,  
Genesee County, New York**

**Case No.: 19-F-0299**



**Excelsior Energy Center, LLC  
700 Universe Boulevard  
Juno Beach, Florida 33408**

**June 2019**

## **Table of Contents**

|           |   |          |
|-----------|---|----------|
| <b>1.</b> | <b>INTRODUCTION .....</b>   | <b>1</b> |
| <b>2.</b> | <b>APPLICANT AND PROJECT DESCRIPTION .....</b>  | <b>1</b> |
| 2.1       | Company Profile.....  | 1        |
| 2.2       | Project Summary .....   | 2        |
| 2.3       | Project Area and Study Area .....   | 3        |
| <b>3.</b> | <b>PUBLIC INVOLVEMENT PROGRAM OVERVIEW .....</b>  | <b>4</b> |
| 3.1       | PIP Plan Goals.....   | 4        |
| 3.2       | PIP Plan Schedule .....   | 4        |
| <b>4.</b> | <b>STAKEHOLDERS .....</b>   | <b>4</b> |
| 4.1       | Identification of Stakeholders .....  | 4        |
| 4.2       | Host Community.....   | 5        |
| 4.3       | County Agencies .....   | 5        |
| 4.4       | State Agencies .....  | 5        |
| 4.5       | Federal Agencies.....   | 6        |
| 4.6       | Legislative Representatives .....   | 6        |
| 4.7       | Highway Departments.....  | 6        |
| 4.8       | Schools .....   | 6        |
| 4.9       | Emergency Responders .....  | 6        |
| 4.10      | Adjacent Municipalities .....   | 6        |
| 4.11      | Utilities .....   | 6        |
| 4.12      | Public Interest Groups .....  | 7        |
| 4.13      | Airports and Heliports .....  | 7        |
| 4.14      | Participating Landowners .....  | 7        |
| 4.15      | Adjacent Landowners .....   | 7        |
| 4.16      | Area Residents.....   | 8        |
| <b>5.</b> | <b>PUBLIC INVOLVEMENT PROGRAM ELEMENTS .....</b>  | <b>9</b> |
| 5.1       | PIP Plan Activities, Schedule, and Goals .....  | 9        |
| 5.2       | Consultation with Affected Agencies and other Stakeholders .....  | 9        |
| 5.2.1     | Stakeholder Notifications .....   | 10       |
| 5.2.2     | Collection of Stakeholder Input .....   | 10       |
| 5.2.3     | Distribution of PSS and Application Documents to Stakeholders .....   | 11       |
| 5.3       | Pre-Application Activities to Encourage Stakeholders to Participate at the Earliest<br>Opportunity.....       | 11       |
| 5.3.1     | Town Board Meetings .....   | 11       |
| 5.3.2     | Open House.....   | 11       |
| 5.4       | Project Contact Information.....  | 12       |
| 5.4.1     | Local Access to Project Representatives.....  | 12       |
| 5.4.2     | Toll Free Telephone Number.....   | 12       |
| 5.5       | Activities Designed to Educate the Public on the Proposal, the Article 10 Review Process,<br>and Funding..... | 12       |

|       |  |           |
|-------|--|-----------|
| 5.6   | Website .....  | 13        |
| 5.7   | Notifications .....  | 14        |
| 5.8   | Activities Designed to Encourage Stakeholder Participation ..... | 15        |
| 5.8.1 | Document Repositories .....                                      | 15        |
| 6.    | <b>ENVIRONMENTAL JUSTICE AREAS</b> .....                         | <b>16</b> |
| 7.    | <b>LANGUAGE ACCESS</b> .....                                     | <b>17</b> |
| 8.    | <b>FIGURES</b> .....   | <b>19</b> |

## **Figures**

|           |                                 |    |
|-----------|---------------------------------|----|
| Figure 1. | Regional Project Location ..... | 20 |
| Figure 2. | Project Area .....              | 21 |
| Figure 3. | Study Area .....                | 22 |

## **Appendices**

|             |   |
|-------------|---|
| Appendix A. | Stakeholder List                            |
| Appendix B. | Stakeholder Consultation Goals and Schedule |
| Appendix C. | PIP Plan Meeting Log                        |
| Appendix D. | Preliminary Project Schedule                |



## List of Acronyms

|              |  |
|--------------|--|
| ACENY        | Alliance for Clean Energy New York, Inc.   |
| CES          | Clean Energy Standard  |
| DMM          | Document and Matter Management   |
| DOE          | Department of Energy   |
| DPS          | Department of Public Service   |
| FAA          | Federal Aviation Administration  |
| GIS          | Geographic information system  |
| MW           | megawatt   |
| NYPA         | New York Power Authority   |
| NYSDEC       | New York State Department of Environmental Conservation  |
| NYSERDA      | New York State Energy Research and Development Authority   |
| PIP Plan     | Public Involvement Program Plan  |
| POC          | point of contact   |
| POI          | point of interconnection   |
| Project      | Excelsior Energy Center  |
| Project Area | locations being evaluated for placement of permanent Project facilities, including the proposed collection substation and interconnection facilities |
| PSL          | Public Service Law   |
| PSS          | Preliminary Scoping Statement  |
| SEP          | 2015 New York State Energy Plan  |
| Siting Board | New York State Board on Electric Generation Siting and the Environment   |
| Study Area   | all areas within two (2) miles of the Project Area property boundaries   |

## **1. INTRODUCTION**

Excelsior Energy Center, LLC, a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC (“NextEra Energy Resources”), plans to submit an application to construct a major electric generating facility (the “Excelsior Energy Center”) under Article 10 of the Public Service Law (PSL). Pursuant to the rules of the New York State Board on Electric Generation Siting and the Environment (Siting Board), applicants proposing to submit an application to construct a major electric generating facility under Article 10 must submit a Public Involvement Program Plan (PIP Plan). The PIP Plan must be submitted to the Department of Public Service (DPS) for review at least 150 days prior to filing a Preliminary Scoping Statement (PSS). This document is the PIP Plan for the Excelsior Energy Center (the “Project”), a solar energy facility with energy storage described in Section 2.

As required by 16 NYCRR § 1000.4, this PIP Plan includes the following elements:

- 1) consultation with the affected agencies and other stakeholders;
- 2) pre-application activities to encourage stakeholders to participate at the earliest opportunity;
- 3) activities designed to educate the public as to the specific proposal and the Article 10 review process, including the availability of funding for municipal and local parties;
- 4) the establishment of a website to disseminate information to the public;
- 5) notifications; and
- 6) activities designed to encourage participation by stakeholders in the certification and compliance process.

## **2. APPLICANT AND PROJECT DESCRIPTION**

### **2.1 Company Profile**

NextEra Energy Resources is the competitive energy subsidiary of NextEra Energy, Inc., a Fortune 200 company and the world's largest generator of renewable energy from the wind and sun. NextEra Energy Resources is primarily a wholesale power generator, operating power plants and selling the output to utilities, retail electricity providers, power cooperatives, municipal electric providers and large industrial companies. Nationally recognized as a leading clean energy provider, NextEra Energy Resources has a portfolio of facilities totaling more than 21,000 megawatts (MW) of generating capacity in the United States and Canada. More than 99 percent of our electricity is derived from clean or renewable sources, including wind, solar, natural gas and nuclear energy.

The Excelsior Energy Center would be compatible with the New York State policies promoting renewable energy goals, including the 2015 New York State Energy Plan (SEP), the Clean Energy Standard (CES) which proposes to achieve 50 percent of the State's electricity to be generated from renewable sources by 2030 (the "50 by 30 goal"), and Governor Cuomo's State of the State address in January 2019 pledging to move New York to 100 percent carbon-free electricity by 2040.

Excelsior Energy Center, LLC intends to construct, own, operate, and maintain all components of the Project, with the exception of the interconnection switchyard. The switchyard facility will be constructed by Excelsior Energy Center, LLC, and then transferred to the New York Power Authority (NYPA), which will own, operate, and maintain the switchyard.

## **2.2 Project Summary**

Excelsior Energy Center is planning the Project to have a maximum generating capability of 280 MW of power and a 20 MW/4-hour duration energy storage system located on land leased from owners of private property located in the Town of Byron, Genesee County, New York (Figure 1). The Project is planned to commence commercial operation in 2022 and will be designed to operate at least 30 years.

Project facilities will include commercial-scale solar arrays, access roads, buried (and possibly overhead) electric collection lines, energy storage, a Project collection substation, and electrical interconnection facilities. Excelsior Energy Center anticipates the interconnection facilities will include a 345 kV switchyard, which, as noted above, will be transferred to NYPA to own and operate. The proposed collection substation and interconnection facilities will be located on land located within the northern portion of the Project Area (defined in Section 2.3 below), adjacent to NYPA's existing Rochester to Moses Niagara 345kV/Rochester to Somerset 345kV transmission line. With the entire Project subject to Article 10, the outreach activities described in this PIP Plan will address both the interconnection facilities and the solar energy/energy storage facility.

The proposed Project will have positive socioeconomic impacts in the Project Area and beyond through employment opportunities, specifically by generating construction employment. Based on similar Project experience elsewhere, Excelsior Energy Center estimates that approximately 300-350 construction jobs (peak) will be created during the approximate 9-12 months of construction. Local construction employment will primarily benefit those in the construction trades, including equipment operators, truck drivers, laborers, and electricians. Excelsior Energy Center encourages local hiring to the greatest extent possible and workers from outside the area who fill specialized job functions will add to the regional economy by staying in area hotels, eating

in the local restaurants and shopping in Genesee County stores. The operation of the facility will require three to four local permanent employment positions.

### **2.3 Project Area and Study Area**

Figures 1-3 show the regional Project location, the Project Area and the preliminary Study Area to be used for analysis. For purposes of this document, Excelsior Energy Center is defining these areas as follows:

- The Project Area is comprised of the locations being evaluated for placement of permanent Project facilities, including the proposed collection substation and interconnection facilities. As shown in Figure 2, the Project Area currently includes approximately 3,418 acres of land, of which approximately 1,500-2,000 acres would be utilized for the proposed solar energy center. Additional land area beyond what is required for the proposed solar energy center is included in the Project Area in order to provide setbacks from neighboring land uses and to minimize impacts to environmental resources to the maximum extent practicable.
- Consistent with 16 NYCRR § 1000.2(ar), the Study Area (as shown in Figure 3) is all areas within two (2) miles of the Project Area boundaries (which includes the planned location of Project generating facility components, interconnections and related facilities), and includes approximately 32,282 acres of land (inclusive of the approximately 3,406-acre Project Area). As a number of studies will be performed in support of the Application, some of the studies may utilize resource-specific study areas greater than the two-mile radius, as will be discussed in the PSS.

The Project Area and Study Area are based on preliminary estimates of where facilities could be located. The PSS and Application will further define these areas.

### **3. PUBLIC INVOLVEMENT PROGRAM OVERVIEW**

#### **3.1 PIP Plan Goals**

Excelsior Energy Center developed this PIP Plan so that comments of individuals and groups with a potential interest in the Project are objectively considered in the Project design and review. Specific PIP Plan goals are to:

- Identify groups and individuals with a potential interest in the Project, i.e., “stakeholders;”
- Implement activities to make stakeholders aware of the Project;
- Facilitate stakeholders access to information on the Project and the Article 10 review process in a relatively convenient manner;
- Engage stakeholders to understand their interests related to the Project and seek input as to how to best address their interests and concerns as the Project moves forward;
- Gather specific information from stakeholders that can be used to design objective and useful studies to be defined in the PSS and included in a complete Application for the Project.

#### **3.2 PIP Plan Schedule**

Excelsior Energy Center will begin conducting PIP Plan activities during the pre-application phase, and these public involvement activities will continue throughout the Article 10 process until the Project begins commercial operation. Additional outreach to host landowners and municipal officials will take place during decommissioning activities. Specific PIP Plan activities and their schedules are discussed in Section 5.

### **4. STAKEHOLDERS**

#### **4.1 Identification of Stakeholders**

Excelsior Energy Center has identified several categories of stakeholders. Overall, Excelsior Energy Center relied on its experience in developing other projects and the knowledge of its local representatives to identify potential stakeholders. The identification of stakeholders was based on DPS guidance, conducting internet research, site visits to the Project Area and Study Area, review of GIS records, tax records, and consultation with environmental/regulatory counsel.

Descriptions of stakeholder categories are located in the following sections below, and Appendix A contains the preliminary Project stakeholder list and the current known contact information for each stakeholder. A mailing list will be developed based on the stakeholders listed below, addresses solicited from public meetings, and those gathered from contacts generated through the Project website. The Applicant anticipates that the mailing list will be updated as necessary based on information received during PIP Plan activities, and these updates will be provided to DPS along with the PIP Plan tracking submissions.

Project outreach materials will contain instructions on how to be added to the stakeholder list. Individuals or organizations will be able to be added to the stakeholder list by calling a Project representative, mailing a letter to a Project representative, by sending an email to Excelsior Energy Center through the Project website or requesting to be added to the Stakeholder List at an open house event.

#### **4.2 Host Community**

For the purposes of this PIP Plan, host community refers to the municipality that includes the Project Area and is anticipated to include Project components. The Town Board and Planning Board representing the host community within the Project Area were identified by review of town and county boundary maps and are considered stakeholders. Points of contact (POC) will be the Town Supervisor. Notices will be addressed to each member of the Town Board and Planning Board at the address for the Town Hall.

#### **4.3 County Agencies**

County agencies, with areas of responsibility potentially affected by the Project, were identified by review of the county websites and/or county GIS data. Note that the County Emergency Services Coordinator and Sheriff are identified as stakeholders and are listed under the category of “Emergency Responders.”

#### **4.4 State Agencies**

Departments of New York State governments were identified using Excelsior Energy Center’s experience in developing utility projects in the region, as well as those agencies specifically identified in 16 NYCRR § 1000.5 and 1000.6.

#### **4.5 Federal Agencies**

Agencies of the U.S. government were identified using Excelsior Energy Center's experience in developing projects in the United States, review of previous PIP Plan submittals, and DPS guidance.

#### **4.6 Legislative Representatives**

Offices of the New York State Legislature, the U.S. Senate, U.S. Congress, and Genesee County Legislators representing the Study Area were identified by review of on-line district maps.

#### **4.7 Highway Departments**

County and town departments responsible for managing roads in the Study Area were identified by review of town and county boundary maps, and online research.

#### **4.8 Schools**

School districts serving parcels in the Study Area and school districts adjacent to these districts were identified by review of county tax maps and online research.

#### **4.9 Emergency Responders**

Fire departments, emergency responders and police or sheriff departments serving parcels in the Study Area were identified by review of county tax maps and online research.

#### **4.10 Adjacent Municipalities**

Towns, villages, or other municipalities that are not host communities but are in the Study Area were identified by review of municipal boundary maps and GIS mapping.

#### **4.11 Utilities**

Companies that own gas, electric, or communications infrastructure in the Project Area were identified by available local and state geographic information databases (e.g., Ventyx), online research, and previous PIP Plan submittals. Utility companies will be contacted concerning

location of facilities, design and safety standards for construction near existing infrastructure.

#### **4.12 Public Interest Groups**

Organizations that serve interests of the public in the Study Area were identified from the 2019 list of county officials that includes county and town historians, and online research. This category includes business organizations, county and town historians, conservation, outdoor recreation or environmental organizations.

#### **4.13 Airports and Heliports**

The Federal Aviation Administration (FAA) evaluates potential impacts on air navigation for proposed structures that exceed certain criteria, such as heights greater than 200 feet above ground level and in close proximity to public use and military airports (14 CFR §77.9(a-e)). The proposed facility will not trigger notification to the FAA.

#### **4.14 Participating Landowners**

The property owners that have entered into lease, easement, purchase option, or setback agreements with Excelsior Energy Center and will allow construction of Project facilities on their property are considered “participating landowners”.

Excelsior Energy Center’s private contracts with landowners contain provisions for Excelsior Energy Center and landowners to work together on Project plans. These consultations are confidential discussions outside the scope of this PIP Plan. In addition to confidential communications with Excelsior Energy Center, participating landowners living in the Project Area will be notified of Project milestones and events in the same manner as all residents of the Study Area. Participating landowners will be included in mailings, outreach activities and notifications that are provided to the stakeholders identified in this PIP Plan and as the Project progresses. However, for privacy purposes, the stakeholder list may include addresses or parcel numbers rather than landowner identification. The current Town Clerk is a participating landowner.

#### **4.15 Adjacent Landowners**

Owners of properties that abut Project facilities, but who are not participating landowners, are considered “adjacent landowners.” Specifically, “adjacent landowners” are those landowners



within 2,500 feet of the Project Area property boundaries. As the Project layout evolves, some stakeholders identified as adjacent landowners may recede while others may be added in response to changes in land acquisition and facilities siting. While all Study Area residents will be initially notified and have the opportunity to join the stakeholders list (see 4.16 below) once a Project layout is developed, Excelsior Energy Center will identify these adjacent landowners by review of tax records and will add the adjacent owners individually to the stakeholder list. These owners will receive mailings or emails notifying them of Project milestones and events. Adjacent landowners will be included in mailings, outreach activities and notifications that are provided to the stakeholders identified in this PIP Plan and as the Project progresses. However, for privacy purposes, the stakeholder list may include addresses or parcel numbers rather than landowner identification.

#### **4.16 Area Residents**

Residents of the Study Area who are not participating landowners or adjacent owners are included in the stakeholder list as one group. Excelsior Energy Center plans to notify these residents of the Project individually by mailing an informational flyer announcing the open houses and providing general Project information to all unique addresses in the tax assessment rolls for the Study Area. At the open house, attendees will be encouraged to join the stakeholder list if they wish to continue to receive notice of future Project milestones (i.e., availability of the PSS, public statement hearings, filing of the Application.). Besides the open house notifications, Excelsior Energy Center does not plan additional broad mailings to area residents that do not register as stakeholders. However, these residents would still likely hear more of the Project through public outreach activities, notices in area newspapers, and updates on the Project website.

## **5. PUBLIC INVOLVEMENT PROGRAM ELEMENTS**

The overall objective of the PIP Plan, which is inherent in each of the following elements, is to engage with all stakeholders in order to understand their varied interests and concerns as they relate to the Project, to seek their input and to gather specific, objective information that can be utilized to inform the detailed study plans that will make up the PSS, and to explain methods Excelsior Energy Center will use to keep stakeholders informed throughout the entire Article 10 process. To that end, the PIP Plan will involve the program elements outlined in the sections below.

### **5.1 PIP Plan Activities, Schedule, and Goals**

Appendix B lists the PIP Plan activities Excelsior Energy Center plans to conduct, and the schedule and goals for each activity. Public involvement activities will be conducted throughout the Article 10 process. Materials to encourage public involvement throughout the Article 10 process, such as fact sheets covering topics listed in Section 5.5 below, and open house events are currently being prepared, and will be available on the Project website.

### **5.2 Consultation with Affected Agencies and other Stakeholders**

At any stakeholder meetings or conference calls, Excelsior Energy Center will be represented by one or more of the representatives identified in Section 5.4.1.

Each consultation meeting will include an overview of the proposed Project and the Article 10 review process. Additional topics covered during stakeholder consultations will vary depending on the stakeholder's role and potential impact. Examples of possible topics are the availability of funding for municipal and local parties, local laws, emergency response requirements, and potential environmental impacts. Stakeholder consultation meetings will be documented and summarized in the PIP Plan Tracking Report (as discussed in Section 5.8.1 below). The Tracking Report will also identify, as applicable and appropriate, concerns or questions raised by the public, as well as the Applicant's response.

As appropriate, Excelsior Energy Center will conduct subsequent meetings to answer specific questions, and to discuss studies, mitigation, or other strategies that could address stakeholder

concerns. A key to these interactions, and a core of the PIP Plan, is receiving information from the stakeholders.

A schedule of initial consultations is provided in Appendix B.

### **5.2.1 Stakeholder Notifications**

The Siting Board's rules establish the notification requirements for serving documents. In accordance with 16 NYCRR § 1000.7, Excelsior Energy Center will publish all required notices in the Daily News, Democrat & Chronicle, the Batavian and the Genesee Valley Pennysaver (see Section 5.7). The notices will not be placed in the "legal notice" section of the newspapers but rather a prominent location in the newspaper will be sought to the extent reasonable and available.

As noted in Section 4.16, Excelsior Energy Center plans to notify residents of the Study Area of the Project individually by mailing an informational flyer announcing the open houses and providing general Project information to all unique addresses in the tax assessment rolls for the Study Area. Additional information on this notification can be found in Section 5.7.

No less than three days before filing of the PSS and the Application, Excelsior Energy Center will publish a notice of the PSS and the Application in the newspapers listed above; serve each member of the State Legislature in whose district any portion of the proposed Project is to be located; will provide written notice to those persons who have filed a statement with the Secretary within the past twelve months that wish to receive such notices; and provide mail and email (if available) notification to all parties on the stakeholder List. In addition, notifications will be posted on the Project website, which is discussed in Section 5.6.

The Applicant will publish any other notices required by the Presiding Examiner or other section of Article 10 in the manner prescribed by the Presiding Examiner or under the procedures contained in Article 10.

### **5.2.2 Collection of Stakeholder Input**

For stakeholder groups, Excelsior Energy Center will identify and contact the group's POC to introduce the Project and offer to meet with the stakeholder group or POC. At stakeholder meetings Excelsior Energy Center will introduce NextEra Energy Resources, the Project, and the Article 10 review process, and Excelsior Energy Center will solicit specific feedback on issues that stakeholders want considered in the Project design or review. This feedback will be tracked in a comment log as discussed in Section 5.8.1 below.

Depending on the number of individual stakeholders, it may not be practical to contact each individually. Regardless, individual stakeholders will be notified of several opportunities to learn about the Project and submit input, including on the Project website.

### **5.2.3 Distribution of PSS and Application Documents to Stakeholders**

Stakeholders will be made aware (via mail and email) of PSS and Application availability on the Project website, the DPS website and at various public document repositories. Excelsior Energy Center does not intend to provide individual hard copies of these documents to stakeholders, except as required under 16 NYCRR § 1000.5 and 1000.6.

## **5.3 Pre-Application Activities to Encourage Stakeholders to Participate at the Earliest Opportunity**

### **5.3.1 Town Board Meetings**

Excelsior Energy Center will offer to present at a scheduled Town Board meeting of the Town of Byron during the pre-Application phase. As part of the presentation, Excelsior Energy Center representatives will discuss the Project, the Article 10 process, and respond to questions and receive input from the Town Board. The above meetings and any future attendance at Town Board meetings will be documented in the PIP Plan tracking report.

### **5.3.2 Open House Events**

Excelsior Energy Center will hold two open house style public meetings prior to filing the PSS, and two after the filing of the PSS, at a location that will strive to maximize coverage for the largest number of residents, likely to be held at two different times on the same day (such as one in the early afternoon and another in the evening) to help offer the best opportunities for interested persons to attend. At least three representatives of Excelsior Energy Center's development team will be present at the meeting and Excelsior Energy Center will provide notice by email to DPS Staff of the pending public meetings. The meetings will include poster displays on the Project, solar energy, energy storage and the Article 10 review process (including intervenor funding availability and application process). One-on-one and small group informational discussions may take place throughout the duration of the open houses, providing opportunities for attendees to gain information on the Project, have their questions addressed, and provide input to Excelsior Energy Center representatives. As part of the open house discussions, Excelsior Energy Center representatives will emphasize the role of stakeholders and encourage interested area residents to join the stakeholder list.

## **5.4 Project Contact Information**

### **5.4.1 Local Access to Project Representatives**

The Project representative at this time is:

Mr. Keddy Chandran  
Address: 700 Universe Blvd, FEW/JB  
Juno Beach, FL 33408  
Telephone: (561) 691-7274  
Email: [Keddy.Chandran@nexteraenergy.com](mailto:Keddy.Chandran@nexteraenergy.com)

Contact information for the representative(s) (including name, address and email) will be posted in outreach materials and on the Project specific website (described below in Section 5.6). Additionally, this information will be made available at stakeholder consultations and at the open house. At this stage in development, there will not be a local office.

### **5.4.2 Toll Free Telephone Number**

Excelsior Energy Center will maintain a toll free telephone number that includes a connection to an automated voicemail. The phone number will be advertised on the Project website and in outreach materials, and will be monitored for questions on the Project. Excelsior Energy Center will endeavor to respond to questions within two (2) business days of receipt.

The toll free phone number is: (800) 674-8613

## **5.5 Activities Designed to Educate the Public on the Proposal, the Article 10 Review Process, and Funding**

Town Board meetings and the open house (as described above) provide multiple opportunities for Excelsior Energy Center to disseminate information to the public concerning Project specifics, the Article 10 process, the availability of funding for municipal and local parties, as well as receive information from the public. Educational materials will be available at all meetings including handouts on Project specifics and the public's role in the Article 10 process, including the intervenor fund, Project contact information, an invitation to join the stakeholder list and the location of document repositories. All public meetings and written educational materials will also encourage interested parties to visit the Project website (described below) for information and updates. Materials and

presentations will be posted on the Project website as they become available.

At the open house, Excelsior Energy Center plans to have poster board displays covering topics such as:

- How photovoltaic solar energy and energy storage works;
- Overview of proposed Excelsior Energy Center;
- Environmental and emission offset benefits of solar energy and energy storage;
- Typical construction process for a solar energy center;
- Project schedule;
- Intervenor funding and Article 10 process (including Pre-Application stakeholder involvement and scoping process);
- Frequently asked questions (FAQ's);
- Information about NextEra Energy Resources, LLC;
- Studies expected to be required for permitting of the Project;
- Viewsheds;
- Project security features; and
- Economic benefits of the Project to the local economy.

Excelsior Energy Center will develop materials on the above topics using information from its knowledge of the Article 10 process, and industry sources such as New York State Energy Research and Development Authority's (NYSERDA) NY-Sun Program, the Alliance for Clean Energy New York, Inc. (ACENY), and the Department of Energy (DOE). Versions of these materials will be available on the Project website.

## **5.6 Website**

In order to disseminate information, Excelsior Energy Center has established a user-friendly website dedicated to the Project written in plain English. Excelsior Energy Center will update the website as the Project develops and more information becomes available.

Project Website: [www.excelsiorenergycenter.com](http://www.excelsiorenergycenter.com)

The following items are posted (or will be posted once additional information is available) on the website:

- Project description and location;
- Estimated project timeline;
- Project benefits and need;
- Preliminary Project maps;

- Project contact information, including an email address and a telephone number;
- Summary of the Article 10 process;
- Summary of the intervenor funding process with instructions on how to apply;
- Addresses of local public document repositories;
- Links to the Article 10 Siting Board webpage and to case-specific documents filed for the Project;
- Notices for public outreach events, opportunities for public participation, filings, and public statement hearings;
- PIP Plan tracking report; and
- Instructions on how to join the stakeholder list.

Email inquiries through the website will receive an automated response acknowledging receipt of the question or comment, and a response from the Applicant will be provided within 2-3 days, as feasible and appropriate. If the request involves obtaining written documents the response will include an estimated mailing date of the materials.

## **5.7 Notifications**

As noted previously, Excelsior Energy Center plans to individually notify residents of the proposed Project by mailing informational flyers (via First-Class US Postal Service) announcing the open houses and general project information to all unique addresses in the tax assessment rolls for the Study Area. In addition, the open house will be properly advertised by mailings or emails to stakeholders (including to all Study Area residents as described above), on the Project website, and in the newspapers listed below. It is anticipated that the open houses will be advertised at least two weeks prior to the event.

As part of its mailing to stakeholders on the open house, Excelsior Energy Center will include instructions on how to contact Excelsior Energy Center.

Excelsior Energy Center will publish notices as required by the Article 10 regulations. Notices of PSS and Application filings will be published on the Project website and in the following papers:

- The Daily News, a paid-subscription, daily newspaper for Genesee, Wyoming and Orleans Counties that also is utilized by the Host Municipality for public notices.  
<http://www.thedailynewsonline.com/>
- The Democrat & Chronicle, a paid-subscription, daily newspaper serving the greater Rochester area. <https://www.democratandchronicle.com/>
- The Batavian, a free online-only news source for Batavia and Genesee County.  
<https://www.thebatavian.com/>
- The Genesee Valley Pennysaver, a free weekly print and online newspaper.  
<https://www.gvpennysaver.com/>

In addition to the newspaper notices, the stakeholder list will be notified via email or mail (depending on their stated preference) when the PSS and Application filings will be available for review. The Applicant will include an updated stakeholder list with these filings, including host and adjacent landowners and other parties identified through the Applicant's outreach efforts, as well as proof that a mailing has occurred. Copies of the PSS and Application will be distributed to the local repositories in addition to being posted on the Project website.

## **5.8 Activities Designed to Encourage Stakeholder Participation**

All of the activities described above, including the open house and various forms of stakeholder outreach, have been designed to provide opportunities for stakeholders to participate in the Article 10 certification and compliance process. Consultations will be considered successful if information about the Project and the Article 10 process (including PSS and Application submittal milestones and document availability) was provided to stakeholders in an appropriate and timely manner (as described above), any relevant information provided to the Applicant was utilized to help advance the PIP Plan process and the preparation, submittal and review of the Application, and if follow-up meetings or consultations were scheduled or undertaken, if necessary.

### **5.8.1 Document Repositories**

While all information pertaining to the Project will be updated via the Project website as appropriate, Excelsior Energy Center will maintain hard copies of the PIP Plan, the PSS, and the Article 10 Application (and any updated subsequent versions of these documents) at the following locations for those stakeholders who may not have access to the website, or prefer to review hard copies:

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



Stakeholder participation will be documented by Excelsior Energy Center through the following activity:

- PIP Plan Tracking Report: The log will document the event date, location, attendees (or category thereof), summary of topics discussed, and any follow-up steps. Excelsior Energy Center will file the PIP Plan tracking report with the Secretary to the Board and post it on the Project website on a quarterly basis.

## 6. ENVIRONMENTAL JUSTICE AREAS

The New York State Department of Environmental Conservation (NYSDEC) provides map files of Potential Environmental Justice Areas it identifies as census block groups with populations that meet one or more of the following thresholds:

- 51.1% or more of the population in an urban area reported themselves to be members of minority groups; or
- 33.8% or more of the population in a rural area reported themselves to be members of minority groups; or
- 23.59% or more of the population in an urban or rural area had household incomes below the federal poverty level.

According to a review of NYSDEC's website <https://www.dec.ny.gov/public/911.html> (accessed April 2019) which utilizes the 2000 Census as its most up to date data source, there are no Potential Environmental Justice Areas within the Study Area. The Project Area, including a half-mile buffer, is wholly contained within Census Block Groups 4, 5 and 6 of Census Tract 9501, Census Block Group 1 of Census Tract 9502 and Census Block Group 4 of Census Tract 9511 in Genesee County, New York. According to the most current data from the 2017 U.S. Census Bureau's American Community Survey,<sup>1</sup> Census Block Groups 4, 5 and 6 of Tract 9501 have low-income populations of 10, 3 and 11 percent and minority (non-white, non-Hispanic) populations of 1, 1, and 2 percent, respectively. Census Block Group 1 of Tract 9502 has a low-income population of 11 percent and a minority (non-white, non-Hispanic) population of 19 percent, respectively. Census Block Group 4 of Tract 9511 has a low-income population of 4 percent and a minority (non-white, non-Hispanic) population of 3 percent, respectively. Based on the review of the minority and low-income population of these Census Block Groups, the proposed location is not in a Potential Environmental Justice Area, as defined by the State of New York. Accordingly, the Project will not negatively impact any potential environmental justice areas.

---

<sup>1</sup> Source: U.S. Census Bureau, 2017 American Community Survey 5-Year Estimates

NYSDEC mapping indicates there is one Potential Environmental Justice Areas within Genesee County. This Potential Environmental Justice Area is associated with the Tonawanda Seneca Nation Reservation and is located approximately 15 miles west of the Project Area. The Potential Environmental Justice Area closest to the Project Area is located in Wyoming County (Town of Attica) approximately 14 miles southwest of Project Area.

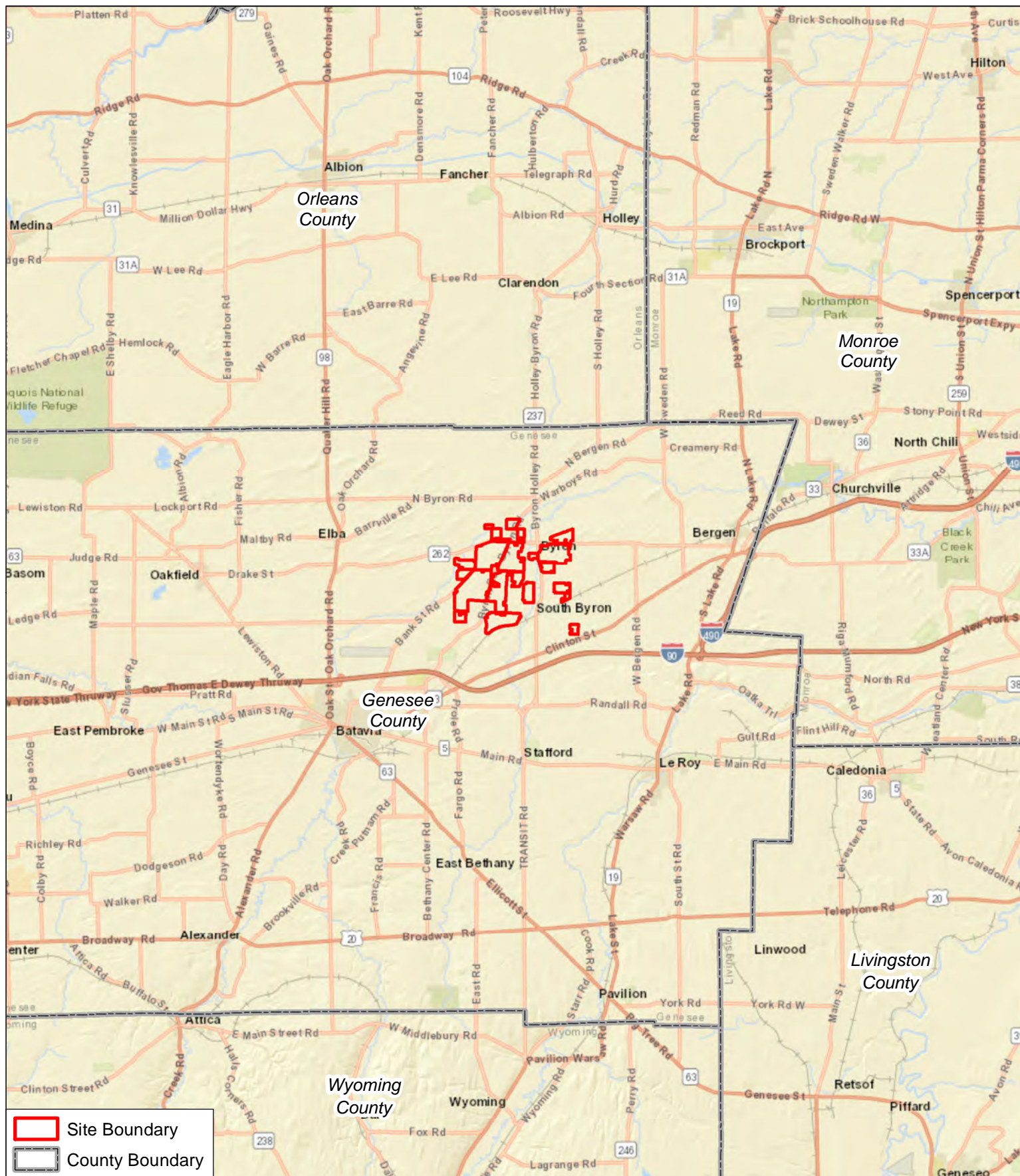
## 7. LANGUAGE ACCESS

Article 10 regulations require the PIP Plan to identify any language other than English spoken (1) by 5,000 or more persons, according to United States Census data, residing in any five-digit zip code postal zone in which any portion of such zone is located within the Study Area; and (2) by a significant population of persons residing in close proximity to the proposed facility, alternative locations, or interconnections. Table 1 lists the five-digit zip codes extending into the Study Area and the most prevalent non-English languages spoken.

| Table 1. Number of Residents of Study Area<br>Zip Codes who speak a Language Other than English   |             |                  |                    |   |  |        |
|---|-------------|------------------|--------------------|---|--|--------|
| Zip Code  | Post Office | Total Population | Speak Only English | Percentage of Population that speaks only English | Most Prevalent Non-English Language Spoken |        |
|   |             |                  |                    |   | Language                                   | Number |
| 14020   | Batavia     | 21,531           | 20,588             | 95.6%   | Spanish                                    | 440    |
| 14058   | Elba        | 1,805            | 1,634              | 90.5%   | Spanish                                    | 132    |
| 14143   | Stafford    | 1,109            | 1,085              | 97.8%   | Other Asian and Pacific Island Languages   | 10     |
| 14416   | Bergen      | 3,375            | 3,250              | 96.3%   | Spanish                                    | 62     |
| 14422   | Byron       | 2,351            | 2,322              | 98.8%   | Spanish                                    | 21     |
| Source: 2013-2017 American Community Survey (ACS) 5-Year Estimate, Table ID C16001: Language Spoken at Home for the Population 5 Years and Over |             |                  |                    |   |  |        |

As shown above in Table 1, no language other than English is spoken by more than 5,000 people residing in any zip code within the Study Area.

## 8. FIGURES



- Site Boundary
- County Boundary



## Regional Project Location Excelsior Energy Center Town of Byron, Genesee County, New York

0 2 4 Miles



FIGURE 1 JUNE 2019











**Appendix A**  
**Stakeholders/Notification**

**List**

| <b><u>HOST COMMUNITY</u></b>   |  |
|--|--|
| Roger V.V. Rouse, Supervisor<br>Town of Byron<br>7028 Byron Holley Rd.<br>Byron, NY 14422  | Debra Buck-Leaton, Town Clerk<br>Town of Byron<br>7028 Byron Holley Rd.<br>Byron, NY 14422   |
| Mike Morris, Zoning Enforcement Officer<br>Town of Byron<br>7028 Byron Holley Rd.<br>Byron, NY 14422   | Jim Cudney, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422   |
| Fred Klycek, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  | Suzanne Fuller, Councilwoman<br>Town of Byron Town Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422   |
| Jeff Thompson, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  | Aaron Sharp, Chairman<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  |
| George Squires<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422   | Ben Raccuia<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  |
| Jim Lamkin<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422   | Josh Kent<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  |
| Chris Hilbert<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  | Sara Stockwell, Secretary<br>Town of Byron Planning Board<br>7028 Byron Holley Rd.<br>Byron, NY 14422  |
| <b><u>COUNTY AGENCIES</u></b>  |  |
| Jay A. Gsell, County Manager<br>Genesee County<br>Old Courthouse<br>7 Main Street<br>Batavia, NY 14020   | Michael T. Cianfrini, County Clerk<br>Genesee County<br>County Building I<br>15 Main Street<br>Batavia, NY 14020                             |
| Felipe A. Oltramari, AICP, CNUa, Director<br>Genesee County Department of Planning<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020 | Brad Mudzynski, District Manager<br>Genesee County Soil & Water<br>Conservation District<br>29 Liberty Street, Suite #3<br>Batavia, NY 14020 |



|   |  |
|---|--|
| John R. Hilchey<br>District No. 1<br>Genesee County Legislature<br>6447 Albion Road<br>Oakfield, NY 14125   | Robert J. Bausch, Chairman<br>District No. 2<br>Genesee County Legislature<br>39 Rochester Street<br>PO Box 81<br>Bergen, NY 14416-0081                |
| Gordon Dibble<br>District No. 3<br>Genesee County Legislature<br>1051 Gabbey Road<br>Corfu, NY 14036  | Andrew Young<br>District No. 4<br>Genesee County Legislature<br>3589 Pike Road<br>Batavia, NY 14020  |
| Rochelle M. Stein<br>District No. 5<br>Genesee County Legislature<br>8259 Gully Road<br>LeRoy, NY 14482   | Gregg H. Torrey<br>District No. 6<br>Genesee County Legislature<br>6005 Torrey Road<br>Stafford, NY 14143  |
| John Deleo<br>District No. 7<br>Genesee County Legislature<br>205 Elm Street<br>Batavia, NY 14020   | Marianne Clattenburg<br>District No. 8<br>Genesee County Legislature<br>248 Ross Street<br>Batavia, NY 14020   |
| Gary T. Maha<br>District No. 9<br>Genesee County Legislature<br>22 Vernon Avenue<br>Batavia, NY 14020   | Genesee County Agricultural and Farmland<br>Protection Board<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020                   |
| <b><u>STATE AGENCIES</u></b>  |  |
| Hon. Kathleen Burgess, Secretary,<br>New York State Board on Electric Generation<br>Siting and the Environment Empire State<br>Plaza<br>Agency Building 3<br>Albany, NY 12223 | James Denn, Public Information Officer<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350 |
| Lorna Gillings, Outreach Contact New York<br>State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                              | Andrea Cerbin Assistant Counsel Office of<br>General Counsel<br>New York State Department of Public Service<br>3 Empire State Plaza Albany, NY 12223   |
| Basil Seggos, Commissioner NYS<br>Department of Environmental Conservation<br>625 Broadway<br>Albany, NY 12233  | Paul D'Amato, Regional Director<br>NYS Department of Environmental<br>Conservation, Region 8<br>6274 E. Avon-Lima Road<br>Avon, NY 14414-9519          |

|  |   |
|--|---|
| Erik Kulleseid, Acting Commissioner<br>NYS Office of Parks, Recreation & Historic<br>Preservation<br>Peebles Island State Park<br>P.O. Box 189<br>Waterford, NY 12188-0189 | Peter G. Humphrey, Chair<br>OPRHP Genesee Regional Commission<br>1 Letchworth State Park<br>Castile, NY 14427   |
| Paul A. Karas, Acting Commissioner<br>NYS Department of Transportation<br>50 Wolf Road<br>Albany, NY 12232   | Kevin Bush, Regional Director<br>NYS Department of Transportation, Region 4<br>1530 Jefferson Road<br>Rochester, NY 14623   |
| Matthew J. Driscoll, Acting Exec. Dir.<br>New York State Thruway Authority<br>Board of Directors<br>200 Southern Blvd.<br>P.O. Box 189<br>Albany, NY 12201-0189            | Richard Ball, Commissioner<br>NYS Department of Agriculture and Markets<br>10B Airline Drive<br>Albany, NY 12235  |
| Richard L. Kaufmann, Board Chairman<br>NYS Energy Research and Development<br>Authority<br>17 Columbia Circle<br>Albany, NY 12203-6399                                     | Alicia Barton, President and Chief Executive<br>Officer<br>NYS Energy Research and Development Auth.<br>17 Columbia Circle<br>Albany, NY 12203-6399                       |
| Howard Zemsky, President and CEO<br>Empire State Development Corporation<br>633 Third Avenue – Floor 37<br>New York, NY 10017  | Vinnie Esposito, Regional Director<br>Finger Lakes Region<br>Empire State Development Corporation<br>400 Andrews Street, Suite 300<br>Rochester, NY 14604                 |
| Rossana Rosado, Secretary of State<br>NYS Department of State<br>One Commerce Plaza 99 Washington Avenue<br>Albany, NY 12231-0001  | Hon. Leticia James<br>NYS Attorney General<br>State Capitol Building<br>Albany, NY 12224-0341   |
| Howard A. Zucker, Commissioner of Health<br>NYS Department of Health<br>Corning Tower Empire State Plaza<br>Albany, NY 12237   | RoAnn Destito, Commissioner<br>NYS Office of General Services 41st Floor, Corning Tower<br>Empire State Plaza<br>Albany, NY 12242   |
| John B. Rhodes, Chair and CEO<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                              | James Austin, Chief of Office of Electric, Gas<br>& Water<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350 |
| Michael Saviola<br>New York State Department of Agriculture<br>and Markets<br>1530 Jefferson Road<br>Rochester, NY 14623   | Cassandra Partyka, Assistant Counsel<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                      |

| <b><u>FEDERAL AGENCIES</u></b>  |  |
|---|--|
| Steve Metivier, Chief, NY Evaluation Section<br>U.S. Army Corps of Engineers<br>Buffalo District<br>ATTN: Regulatory Branch<br>1776 Niagara Street<br>Buffalo, NY 14207-3199                            | David Stilwell, Field Supervisor<br>US Fish and Wildlife Service<br>3817 Luker Road<br>Cortland, NY 13045  |
| Paige Atkins, Associate Administrator<br>National Telecommunications and<br>Information Administration<br>Herbert C. Hoover Building (HCHB)<br>1401 Constitution Avenue, N.W. Washington,<br>D.C. 20230 | Steven J. Sample<br>Mission Evaluation Branch<br>US Department of Defense Siting<br>Clearinghouse<br>3400 Defense Pentagon, Room 5C646<br>Washington, DC 10301 |
| Jennifer Solomon<br>Eastern Region Regional Administrator<br>Federal Aviation Administration<br>1 Aviation Plaza<br>Jamaica, NY 11434-4809  |  |
| <b><u>LEGISLATIVE REPRESENTATIVES</u></b>   |  |
| Charles E. Schumer<br>Senator, State of New York<br>US Senate<br>Leo O'Brien Building<br>11A Clinton Avenue, Room 420<br>Albany, NY 12207   | Kirsten E. Gillibrand<br>Senator, State of New York<br>US Senate<br>Leo W. O'Brien Building<br>11A Clinton Avenue, Room 821<br>Albany, NY 12207                |
| Chris Collins<br>US Congressman, 27 <sup>th</sup> District<br>2813 Wehrle Drive<br>Suite 13<br>Williamsville, NY 14221  | Michael Ranzenhofer<br>NY State Senator, 61 <sup>st</sup> District<br>8203 Main Street<br>Suite 4<br>Williamsville, NY 14221                                   |
| Stephen Hawley<br>NY State Assemblyman, 139 <sup>th</sup> District<br>121 N. Main Street<br>Suite 100<br>Albion, NY 14411   |  |
| <b><u>HIGHWAY DEPARTMENTS</u></b>   |  |
| Brian Forsyth, Highway Superintendent<br>Town of Byron Highway Department<br>7028 Bryon Holley Road<br>Byron, NY 14422  | Timothy J. Hens, P.E., Superintendent<br>Genesee County Highway Department<br>153 Cedar Street<br>Batavia, NY 14020  |

| <b><u>SCHOOL DISTRICTS</u></b>   |   |
|--|---|
| Mickey Edwards, Superintendent<br>Byron-Bergen Central School District<br>6917 West Bergen Road<br>Bergen, NY 14416  | Ned Dale, Superintendent<br>Elba Central School District<br>57 South Main Street<br>Elba, NY 14058      |
| Merritt Holly, Superintendent<br>LeRoy Central School District<br>2-6 Trigon Park<br>LeRoy, NY 14482   |   |
| <b><u>EMERGENCY RESPONDERS</u></b>   |   |
| William A. Sheron, Jr., Sheriff<br>Genesee County Sheriff's Office<br>165 Park Road<br>Batavia, NY 14020-1283  | Bob Mruzcek, Chief<br>Byron Fire Department<br>6357 East Main Street<br>Byron, NY 14422                 |
| Brad Nickerson, Captain<br>Byron Rescue Squad<br>6357 East Main Street<br>Byron, NY 14422  | Scott Blossom, Chief<br>South Byron Volunteer Fire Department<br>7389 Rte. 237<br>South Byron, NY 14557 |
| Timothy J. Yaeger, Coordinator<br>Genesee County Emergency Services<br>7690 State Street Road<br>Batavia, NY 14020-1020  | New York State Police, Troop A<br>Troop Headquarters<br>4525 West Saile Drive<br>Batavia, NY 14020-1095 |
| John P. Melville, Commissioner<br>NYS Division of Homeland Security and<br>Emergency Services<br>1220 Washington Avenue, State Office<br>Campus<br>Building 7A Suite 710<br>Albany, NY 12242 |   |
| <b><u>ADJACENT MUNICIPALITIES</u></b>  |   |
| Ernie Haywood, Supervisor<br>Town of Bergen<br>10 Hunter Street<br>Bergen, NY 14416  | Gregory Post, Supervisor<br>Town of Batavia<br>3833 West Main Street Road<br>Batavia, NY 14020          |
| Donna Hynes, Supervisor<br>Town of Elba<br>7 Maple Avenue<br>Elba, NY 14058  | Robert Clement, Supervisor<br>Town of Stafford<br>8903 Route 237<br>Stafford, NY 14143                  |
| Stephen Barbeau, Supervisor<br>Town of LeRoy<br>48 Main Street<br>LeRoy, NY 14482  | Michele Smith, Town Clerk<br>Town of Bergen<br>10 Hunter Street<br>Bergen, NY 14416                     |

|   |  |
|---|--|
| Trisha Werth, Town Clerk<br>Town of Elba<br>7 Maple Avenue<br>Elba, NY 14058  | Teressa Morasco<br>Town of Batavia<br>3833 West Main Street Road<br>Batavia, NY 14020                |
| Julie Scheuerlein, Town Clerk<br>Town of Stafford<br>8903 Route 237<br>Stafford, NY 14143   | Patricia Canfield, Town Clerk<br>Town of Le Roy<br>48 Main Street<br>Le Roy, NY 14482                |
| Sean Pogue, Supervisor<br>Town of Barre<br>14317 West Barre Road<br>Albion, NY 14411  | Maureen Beach, Town Clerk<br>Town of Barre<br>14317 West Barre Road<br>Albion, NY 14411              |
| Richard Moy, Supervisor<br>Town of Clarendon<br>16385 Church Street<br>Clarendon, NY 14429  | Susan Colby, Town Clerk<br>Town of Clarendon<br>16385 Church Street<br>Clarendon, NY 14429           |
| <b><u>UTILITIES</u></b>   |  |
| Ave Bie, Board Chair<br>New York Independent System Operator<br>10 Krey Boulevard<br>Rensselaer, NY 12144   | Marcy Reed, President<br>National Grid<br>300 Erie Boulevard West Syracuse, NY 13202-4250            |
| Gil C. Quiniones, President and CEO<br>New York Power Authority<br>123 Main Street<br>Corporate Communications<br>Mail Stop 10 B<br>White Plains, NY 10601-3170 | Carl A. Taylor, President & CEO<br>Rochester Gas & Electric<br>89 East Avenue<br>Rochester, NY 14604 |

| <b><u>PUBLIC INTEREST GROUPS / ADDITIONAL STAKEHOLDERS</u></b>   |  |
|--|--|
| Tom Turnbull, President<br>Genesee County Chamber of Commerce<br>8276 Park Road<br>Batavia, NY 14020                                       | Christopher Crawford, Executive Director<br>Cornell Cooperative Extension, Genesee County<br>420 East Main Street<br>Batavia, NY 14020                       |
| Julia Foster, Executive Director<br>Genesee County USDA Farm Service Agency<br>29 Liberty Street<br>Batavia, NY 14020-3294                 | Heath Eisele, District Conservationist<br>USDA Natural Resources Conservation Service<br>West Area<br>29 Liberty Street<br>Suite 3<br>Batavia, NY 14020-3294 |
| Steven G. Hyde, MBA, President and CEO<br>Genesee County Economic Development Center<br>99 MedTech Drive<br>Suite 106<br>Batavia, NY 14020 | Michael J. Eula, County Historian<br>Genesee County History Department<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020               |
| Bob & Beth Wilson, Co-Historians<br>Byron Town Historian<br>6451 Mill Pond Road<br>Byron, NY 14422   | Ken Radley, President<br>Sleds of Stafford Snowmobile Club<br>PO Box 709<br>Stafford, NY 14143-0709  |
| Bergen Swamp Preservation Society<br>P.O. Box 460<br>Bergen, NY 14416-0460   | Dayle Chapman, President<br>Kiwanis Club of Byron<br>5906 Merrill Road<br>Byron, NY 14422-9523   |
| Roger Hill<br>Tonawanda Seneca Nation Reservation<br>7027 Meadville Road<br>Basom, NY 14013  |  |
| <b><u>AIRPORTS/HELIPORTS</u></b>   |  |
| Jason Long, Manager<br>Genesee County Airport<br>4701 East Saile Drive<br>Batavia, NY 14020  | John Sackett, Manager<br>Sackett Farm Airstrip<br>6548 Route 262<br>Byron, NY 14422  |
| Dennis Gray, Manager<br>Stafford Airport<br>7878 Griswold Road<br>Le Roy, NY 14482   | NYS Trooper Heliport<br>New York State Police, Troop A<br>Troop Headquarters<br>4525 West Saile Drive<br>Batavia, NY 14020-1095                              |

|  |  |
|--|--|
| Vito Gautieri, Manager<br>Gautieri Heliport<br>45 Liberty Street<br>Batavia, NY 14020    | Frederick Ely, Manager<br>Ely Air Park<br>7062 South Lake Road<br>Bergen, NY 14416 |
| LeRoy Aviation Services, Inc<br>LeRoy Airport<br>8267 East Main Road<br>Le Roy, NY 14482 |  |
|  |  |
| <b><u>HOST AND ADJACENT LANDOWNERS</u></b>   |  |
| [to be listed later]   |  |
| <b><u>AREA RESIDENTS AND DOCUMENT REPOSITORIES</u></b>                                   |  |
| Town of Byron Town Hall<br>7028 Byron Holley Road<br>Byron, NY 14422                     | Byron-Bergen Public Library<br>13 South Lake Avenue<br>Bergen, NY 14416            |

**Appendix B**  
**Stakeholder Consultation Goals and Schedule**

| <b>Name</b>                                | <b>Goals of Consultation</b>  | <b>Schedule</b>   |
|--|---|---|
| <b>Federal Agencies / Representatives</b>  |   |   |
| US Fish and Wildlife Service               | Identify any concerns related to Endangered Species Act, Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act | Consultation letter prior to submittal of the PSS and ongoing throughout Article 10 process                               |
| US Army Corps of Engineers                 | Clarify jurisdiction and requirements under Section 404 and Clean Water Act   | Initiate prior to submittal of Article 10 application and ongoing throughout Article 10 process                           |
| US Department of Defense                   | Discuss any navigational issues of concern to military aircraft   | Consultation letter prior to submittal of Article 10 application and ongoing throughout Article 10 process (as necessary) |
| Federal Aviation Administration            | Discuss any navigational issues of concern to glint/glare   | Consultation letter prior to submittal of Article 10 application and ongoing throughout Article 10 process (as necessary) |
| US Senator Charles E. Schumer              | Notification as required by Article 10  | Prior to submittal of Article 10 application and ongoing throughout Article 10 process (as necessary)                     |
| US Senator Kristen E. Gillibrand           | Notification as required by Article 10  | Prior to submittal of Article 10 application and ongoing throughout Article 10 process (as necessary)                     |
| US Congressman Chris Collins (District 27) | Notification as required by Article 10  | Prior to submittal of Article 10 application and ongoing throughout Article 10 process (as necessary)                     |



| Name   | Goals of Consultation   | Schedule  |
|--|---|---|
| <b>New York State Agencies / Representatives</b>   |   |   |
| Members of NYS Assembly (Stephen Hawley – 139 <sup>th</sup> District) and NYS Senate (Michael Ranzenhofer – 61 <sup>st</sup> District) | Introduce Project, Article 10 process, and provide contact information  | Introductory letter to be sent prior to PSS   |
|  | Notification as required by Article 10  | Prior to submittal of the PSS   |
|  | Respond to specific inquiries or comments   | As requested by the Stakeholder   |
| NYS Department of Public Service   | Introduce the Project and coordinate Article 10 process   | Introductory meeting to be held prior to submittal of PSS, to be followed by others as needed. Correspondence anticipated to occur throughout Article 10 process  |
| NYS Department of Environmental Conservation (NYSDEC), Main Headquarter and Region 8 Staffs.   | Introduce Project and provide contact information; identify agency concerns related to RTE species, wetlands, and streams   | Introductory meeting to be requested prior to submittal of PSS, to be followed by others as needed. Correspondence anticipated to occur throughout Article 10 process   |
|  | Additional input of survey plans; feedback on study results   |   |
| NYS Office of Parks, Recreation and Historic Preservation  | Coordinate consultation in accordance with Section 14.09 of the New York State Parks, Historic Preservation Law, and/or Section 106 of the Historic Preservation Act, as required | Correspondence and meetings to be requested prior to the Article 10 Application submittal to inform of work plans and contents of cultural studies; ongoing interaction to review findings as necessary throughout Article 10 process |

| Name   | Goals of Consultation   | Schedule  |
|--|---|---|
| OPRHP, Genesee Regional Commission                       | Coordinate consultation in accordance with Section 14.09 of the New York State Parks, Historic Preservation Law, and/or Section 106 of the Historic Preservation Act, as required | Correspondence and meetings to be requested prior to the submittal of the Article 10 Application to inform work plans and contents of cultural studies; ongoing interaction to review findings as necessary throughout Article 10 process |
| NYS Department of Health                                 | Notification as required by Article 10  | Prior to submittal of the Article 10 Application and ongoing throughout Article 10 process (as necessary)   |
| NYS Department of Transportation                         | Notification as required by Article 10  | Prior to submittal of the Article 10 application and ongoing throughout Article 10 process (as necessary)   |
| NYS Energy Research and Development Authority            | Notification as required by Article 10  | Prior to submittal of the Article 10 Application and ongoing throughout Article 10 process (as necessary)   |
| NYS Division of Homeland Security and Emergency Services | Notification as required by Article 10  | Prior to submittal of the Article 10 application and ongoing throughout Article 10 process (as necessary)   |

| Name                                 | Goals of Consultation   | Schedule   |
|--------------------------------------|---|--|
| NYS Department of State              | Notification as required by Article 10  | Prior to submittal of the Article 10 Application and ongoing throughout Article 10 process (as necessary)                                      |
| NYS Department of Ag & Markets       | Notification as required by Article 10; Introduce Project including contact information; discuss areas of interest and identify agency concerns | Introductory meeting to be requested prior to submittal of PSS; consultation anticipated to occur throughout Article 10 process (as necessary) |
| Empire State Development Corporation | Notification as required by Article 10  | Consultation letter anticipated prior to submittal of the Article 10 Application   |
| NYS Attorney General                 | Notification as required by Article 10  | Prior to submittal of the Article 10 Application   |
| New York Independent System Operator | Participation in interconnection process  | Interconnection filings to be submitted prior to submittal of the Article 10 Application.  |
| New York State Thruway Authority     | Notification as required by Article 10  | Prior to submittal of the Article 10 application   |

| Name  | Goals of Consultation   | Schedule  |
|---|---|---|
| <b>Host County</b>  |   |   |
| Genesee County Manager<br>(Jay A. Gsell)  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |
| Genesee County Legislature<br>(Chairman Robert Bausch)  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |
| Genesee County Legislators (John Hilchey, Gordon Dibble, Andrew Young, Rochelle Stein, Gregg Torrey, John Deleo, Marianne Clattenburg, Gary Maha) | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |
| Brad Mudrzynski<br>District Manager<br>Genesee County Soil & Water<br>Conservation District   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |
| Genesee County Dept. of Planning<br>(Felipe A. Oltramari, AICP, CNUa,<br>Director)  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |

| Name   | Goals of Consultation  | Schedule  |
|--|--|---|
| Genesee County Highway Department<br>(Timothy J. Hens, P.E., Superintendent) | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested    | Notification prior to submittal of the PSS; additional consultation anticipated to occur throughout the Article 10 process (as necessary) |
| <b>Host Municipality</b>   |  |   |
| <b>Town of Byron</b>   |  |   |
| Town Supervisor (Roger V.V. Rouse)   | Introduce Excelsior Energy Center and the Project, Article 10 process, intervenor funding and provide contact information; Discuss Project related areas of interest or concern if requested | Introductory meeting to be requested prior to submittal of PSS and throughout the Article 10 process (as necessary)                       |
| Town Clerk (Debra Buck-Leaton)   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information if requested   | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)                                       |
| Town Zoning Enforcement Officer (Mike Morris)                                | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested    | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)                                       |

| Name  | Goals of Consultation   | Schedule  |
|---|---|---|
| Town Highway Department<br>Superintendent (Brian Forsyth)   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| <b>Airports</b>   |   |   |
| Genesee County Airport<br>, Sackett Farm Airstrip, Stafford Airport,<br>NYS Trooper Heliport, Ely Air Park,<br>Gautieri Heliport, LeRoy Airport | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| <b>School Districts</b>   |   |   |
| Byron-Bergen Central School District<br>Mickey Edwards, Superintendent  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Elba Central School District  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| LeRoy Central School District   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |

| Name   | Goals of Consultation  | Schedule  |
|--|--|---|
| <b>Chambers of Commerce</b>                                  |  |   |
| Genesee County Chamber of Commerce (Tom Turnbull, President) | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern               | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| <b>Emergency Responders</b>                                  |  |   |
| Genesee County Sherriff's Office                             | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern, if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Byron Fire Department  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern               | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Byron Rescue Squad   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern, if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| South Byron Volunteer Fire Department                        | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern               | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |

| Name   | Goals of Consultation   | Schedule  |
|--|---|---|
| Genesee County Emergency Services                        | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern              | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| New York State Police, Troop A                           | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| NYS Division of Homeland Security and Emergency Services | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| <b>Adjacent Municipalities</b>                           |   |   |
| Town of Bergen   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of Batavia  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |



| Name              | Goals of Consultation   | Schedule  |
|-------------------|---|---|
| Town of Elba      | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of LeRoy     | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of Stafford  | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of Barre     | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of Clarendon | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |

| Name  | Goals of Consultation   | Schedule  |
|---|---|---|
| <b>Additional Stakeholders</b>              |   |   |
| Participating Landowners                    | Landowner agreements  | Correspondence by phone, mail or in-person meeting per Article 10 regulations and as needed             |
| Adjacent Landowners                         | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)     |
| Area Residents                              | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to PSS submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Town of Byron Historian                     | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)     |
| USDA Farm Service Agency                    | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)     |
| USDA Natural Resources Conservation Service | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary)     |

| Name  | Goals of Consultation   | Schedule  |
|---|---|---|
| Genesee County USDA Farm Service Agency       | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Cornell Cooperative Extension, Genesee County | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| USDA Natural Resources Conservation Service   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Genesee County Economic Development Center    | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Genesee County History Department             | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |

| Name                                | Goals of Consultation   | Schedule  |
|-------------------------------------|---|---|
| National Grid                       | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| New York Power Authority            | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout NYISO interconnection process.    |
| Bergen Swamp Preservation Society   | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Kiwanis Club of Byron               | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |
| Tonawanda Seneca Nation Reservation | Notification to introduce Project, Article 10 process, intervenor funding and provide contact information. Follow-up to discuss Project related areas of interest or concern if requested | Notification prior to submittal of the PSS and ongoing throughout Article 10 process (as necessary) |

**Appendix C**  
**Excelsior Energy Center PIP Plan**  
**Meeting Log**

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments | Follow Up Action Items   |
|-----------|---|---|---|--|
| 8/14/2018 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra                               | Introduced and discussed project.             |  |
| 8/14/2018 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO and President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra | Introduced and discussed project.             |  |
| 1/21/2019 | Phone Call                                  | <u>NYS Assembly</u><br>Assemblyman Steve Hawley<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra  | Introduced and discussed project.             | Asked that NextEra work with his District Office COS, Eileen Banker, to set up meeting |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments   | Follow Up Action Items |
|-----------|---|---|---|------------------------|
| 1/22/2019 | Town of Byron                               | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussed benefits of the project and consistency with the Town's Comprehensive Plan. |                        |
| 2/5/2019  | Phone Call                                  | <u>Town of Byron</u><br>George Squires, PB member<br>Aaron Sharp, PB Chairman<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call/Voicemail                        | <u>Genesee County Legislature</u><br>Calls to each member separately<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call                                  | <u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Introduced and discussed project.   |                        |
| 2/8/2019  | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Paul Battaglia, Chairman of Board<br>Todd Bender, member of Board<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer | Introduced and discussed project.   |                        |
| 2/11/2019 | Genesee County Economic                     | <u>Genesee County Legislature</u><br>Andrew Young (District 4)  | Introduced the project and answered initial questions.                                |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments          | Follow Up Action Items |
|-----------|---|--|--|------------------------|
|           | Development Center                          | Gary Maha (District 9, Wards 4 & 5)<br>Gordon Dibble (District 3)<br><br><u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO and President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental) |  |                        |
| 2/11/2019 | Town of Byron                               | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)  | Discussed project.                                     |                        |
| 2/12/19   | Genesee County                              | <u>Genesee County</u><br>Jay Gsell, County Manager<br>Kevin Earl, County Attorney<br>Matt Landers, Assistant County Manager<br><br><u>NextEra</u><br>Keddy Chandran , Project Developer<br>Bill Boer, Project Manager (Environmental)  | Introduced the project and answered initial questions. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments                                  | Follow Up Action Items |
|-----------|---|---|--|------------------------|
| 2/12/2019 | Town of Byron                               | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental)  | Discussed upcoming Town Board Meeting and possible presentation to Town Board. |                        |
| 2/12/2019 | Town of Byron                               | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental)  | Discussed project.   |                        |
| 2/12/2019 | Genesee County                              | <u>Genesee County Legislators</u><br>Robert Bausch, Chairman (District 2)<br>Marianne Clattenberg, Vice Chairwoman (District 8)<br><br><u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental) | Introduced the project and answered initial questions.                         |                        |
| 2/13/2019 | Town of Byron                               | Town Board Meeting<br><br><u>NextEra Team</u><br>Keddy Chandran, Project Developer  | Cancelled due to weather.  |                        |



| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments                               | Follow Up Action Items |
|-----------|---|--|---|------------------------|
|           |   |  |   |                        |
| 2/19/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra                             | Discussed status of project.  |                        |
| 2/19/2019 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra | Discussed status of project.  |                        |
| 2/22/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Mike Nozzolio (Harris Beach PLLC),<br>Counsel to NextEra                             | Discussed recent Town Board meeting and status of project.                  |                        |
| 3/8/2019  | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer  | Discussed presenting details of the project at upcoming Town Board meeting. |                        |
| 3/13/2019 | Town of Byron                               | Town Board Meeting<br><br><u>Town of Byron</u><br>Town Board   | Presentation by GCEDC describing PILOT process.                             |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments           | Follow Up Action Items |
|-----------|---|--|---|------------------------|
|           |   | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br>Jim Krencik, Director of Marketing and Communications<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)<br>Lisa Paul, Communications<br><br>Members of Public |   |                        |
| 3/20/2019 | Town of Byron                               | <u>Genesee County Economic Development Center</u><br>Todd Bender, member of Board<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Discussed NextEra, Article 10 process, and the project. |                        |
| 3/20/2019 | Town of Byron                               | Area residents<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)<br>Lisa Paul, Communications   | Discussed status of project.                            |                        |
| 3/20/2019 | Genesee County Economic                     | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President   | Discussed status of project.                            |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants   | Purpose of Meeting/Communication and Comments                            | Follow Up Action Items |
|-----------|---|--|--|------------------------|
|           | Development Center                          | <u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)<br>Lisa Paul, Communications   |  |                        |
| 3/21/2019 | Local dinner venue                          | Participating Landowners<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>Lisa Paul, Communications<br>Desiree Estabrook, Associate Project Manager<br><br><u>Canacre</u><br>John Ahearn, Field Manager<br>Ed Coleman, Field Specialist | Discussed status of project and timeline for planned field studies. Q&A. |                        |
| 4/16/2019 | Byron-Bergen District Office                | <u>Byron-Bergen Central School District</u><br>Mickey Edwards, Superintendent<br>Lori Prinz, Business Administrator<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager (Environmental)   | Discussed and introduced project.  |                        |
| 4/16/2019 | Byron Town Hall                             | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br>Jim Cudney, Town Board member  | Discussed status of project.   |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments      | Follow Up Action Items |
|-----------|---|---|--|------------------------|
|           |   | <u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental)  |  |                        |
| 4/18/2019 | DPS Offices                                 | <u>DPS</u><br>James Austin<br>Brian Ossias<br>Andrew Davis<br>Leka Gjonaj<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra<br>Michelle Piasecki (Harris Beach<br>PLLC), Counsel to NextEra | Discussed and introduced project.                  |                        |
| 4/22/2019 | Phone Call/Email                            | <u>DPS</u><br>James Austin<br>James Denn<br>Lorna Gillings<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra   | Provided update on planned submission of PIP Plan. |                        |
| 4/22/2019 | Phone Call                                  | <u>NYSERDA</u><br>Doreen Harris<br><br><u>NextEra</u>   | Provided update on planned submission of PIP Plan. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments      | Follow Up Action Items |
|-----------|---|---|--|------------------------|
|           |   | Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra   |  |                        |
| 4/22/2019 | Phone Call                                  | <u>NYS Assembly</u><br>Assemblyman Steve Hawley<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra              | Provided update on planned submission of PIP Plan. |                        |
| 4/22/2019 | Phone Call                                  | <u>NYS Senate</u><br>Senator Michael Ranzenhofer<br><br><u>NextEra</u><br>Bill Flynn (Harris Beach PLLC),<br>Counsel to NextEra             | Provided update on planned submission of PIP Plan. |                        |
| 4/23/2019 | Phone Call                                  | <u>Genesee County Legislators</u><br>Robert Bausch, Chairman (District 2)<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer        | Provided update on planned submission of PIP Plan. |                        |
| 4/23/2019 | Phone Call                                  | <u>Genesee County Economic Development Center</u><br>Steve Hyde, CEO & President<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer | Provided update on planned submission of PIP Plan. |                        |
| 4/23/2019 | Phone Call/Email                            | <u>Genesee County</u><br>Jay Gsell, County Manager<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer                               | Provided update on planned submission of PIP Plan. |                        |

| Date      | Location of Meeting/Method of Communication | Meeting Attendees/Communication Participants  | Purpose of Meeting/Communication and Comments      | Follow Up Action Items |
|-----------|---|---|--|------------------------|
| 4/24/2019 | Phone Call                                  | <u>Town of Byron</u><br>Roger Rouse, Town Supervisor<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer   | Provided update on planned submission of PIP Plan. |                        |
| 4/30/2019 | Byron Town Hall                             | <u>Town of Byron</u><br>George Squires, PB member<br>Aaron Sharp, PB Chairman<br><br><u>NextEra</u><br>Keddy Chandran, Project Developer<br>Bill Boer, Project Manager<br>(Environmental) | Discussed status of project.                       |                        |
|           |   |   |  |                        |
|           |   |   |  |                        |
|           |   |   |  |                        |

**Appendix D**  
**Excelsior Energy Center**  
**Preliminary Project Schedule**

*\*Please note – all dates are estimated and subject to change; notification of major project milestones and public participation opportunities will be provided as information is available*

**April 2019** – File Preliminary Public Involvement Program Plan with NYSDPS

**June 2019** – File Final Public Involvement Program Plan with NYSDPS

**Summer 2019** – Public Open House Informational Meeting (two meeting times same day); Public to be notified of specific date/location prior to meeting

**Summer/Fall 2019** – File Preliminary Scoping Statement

**Winter/Spring 2020** – Public Open House Informational Meeting (two meeting times same day); Public to be notified of specific date/location prior to meeting

**Spring 2020** – File Article 10 Application

**Fall 2021** – Siting Board Decision on Issuance of Article 10 Certificate

**Winter 2022** – Commercial Operation Date

## **Appendix D**

### **Stakeholder List**



### Stakeholders/Notification List

| <b><u>HOST COMMUNITY</u></b>   |  |
|--|--|
| Roger Rouse, Supervisor<br>Town of Byron<br>7028 Byron Holley Road.<br>Byron, NY 14422   | Debra Buck-Leaton, Town Clerk<br>Town of Byron<br>7028 Byron Holley Road.<br>Byron, NY 14422   |
| Mike Morris, Zoning Enforcement Officer<br>Town of Byron<br>7028 Byron Holley Road.<br>Byron, NY 14422   | Jim Cudney, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Road.<br>Byron, NY 14422   |
| Fred Klycek, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  | Suzanne Fuller, Councilwoman<br>Town of Byron Town Board<br>7028 Byron Holley Road.<br>Byron, NY 14422                                       |
| Jeff Thompson, Councilman<br>Town of Byron Town Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  | Aaron Sharp, Chairman<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  |
| George Squires<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422   | Ben Raccuia<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  |
| Jim Lamkin<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422   | Josh Kent<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  |
| Chris Hilbert<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422  | Sara Stockwell, Secretary<br>Town of Byron Planning Board<br>7028 Byron Holley Road.<br>Byron, NY 14422                                      |
| <b><u>COUNTY AGENCIES</u></b>  |  |
| Jay A. Gsell, County Manager<br>Genesee County<br>Old Courthouse<br>7 Main Street<br>Batavia, NY 14020   | Michael T. Cianfrini, County Clerk<br>Genesee County<br>County Building I<br>15 Main Street<br>Batavia, NY 14020                             |
| Felipe A. Oltramari, AICP, CNUa, Director<br>Genesee County Department of Planning<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020 | Brad Mudzynski, District Manager<br>Genesee County Soil & Water<br>Conservation District<br>29 Liberty Street, Suite #3<br>Batavia, NY 14020 |

|   |  |
|---|--|
| John R. Hilchey<br>District No. 1<br>Genesee County Legislature<br>6447 Albion Road<br>Oakfield, NY 14125   | Robert J. Bausch, Chairman<br>District No. 2<br>Genesee County Legislature<br>39 Rochester Street<br>PO Box 81<br>Bergen, NY 14416-0081                |
| Gordon Dibble<br>District No. 3<br>Genesee County Legislature<br>1051 Gabbey Road<br>Corfu, NY 14036  | Andrew Young<br>District No. 4<br>Genesee County Legislature<br>3589 Pike Road<br>Batavia, NY 14020  |
| Rochelle M. Stein<br>District No. 5<br>Genesee County Legislature<br>8259 Gully Road<br>LeRoy, NY 14482   | Gregg H. Torrey<br>District No. 6<br>Genesee County Legislature<br>6005 Torrey Road<br>Stafford, NY 14143  |
| John Deleo<br>District No. 7<br>Genesee County Legislature<br>205 Elm Street<br>Batavia, NY 14020   | Marianne Clattenburg<br>District No. 8<br>Genesee County Legislature<br>248 Ross Street<br>Batavia, NY 14020   |
| Gary T. Maha<br>District No. 9<br>Genesee County Legislature<br>22 Vernon Avenue<br>Batavia, NY 14020   | Genesee County Agricultural and Farmland<br>Protection Board<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020                   |
| <b><u>STATE AGENCIES</u></b>  |  |
| Hon. Kathleen Burgess, Secretary,<br>New York State Board on Electric Generation<br>Siting and the Environment Empire State<br>Plaza<br>Agency Building 3<br>Albany, NY 12223 | James Denn, Public Information Officer<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350 |
| Lorna Gillings, Outreach Contact New York<br>State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                              | Andrea Cerbin Assistant Counsel Office of<br>General Counsel<br>New York State Department of Public Service<br>3 Empire State Plaza Albany, NY 12223   |
| Basil Seggos, Commissioner NYS<br>Department of Environmental Conservation<br>625 Broadway<br>Albany, NY 12233  | Paul D'Amato, Regional Director<br>NYS Department of Environmental<br>Conservation, Region 8<br>6274 E. Avon-Lima Road<br>Avon, NY 14414-9519          |

|  |   |
|--|---|
| Erik Kulleseid, Acting Commissioner<br>NYS Office of Parks, Recreation & Historic<br>Preservation<br>Peebles Island State Park<br>P.O. Box 189<br>Waterford, NY 12188-0189 | Peter G. Humphrey, Chair<br>OPRHP Genesee Regional Commission<br>1 Letchworth State Park<br>Castile, NY 14427   |
| Paul A. Karas, Acting Commissioner<br>NYS Department of Transportation<br>50 Wolf Road<br>Albany, NY 12232   | Kevin Bush, Regional Director<br>NYS Department of Transportation, Region 4<br>1530 Jefferson Road<br>Rochester, NY 14623   |
| Matthew J. Driscoll, Acting Exec. Dir.<br>New York State Thruway Authority<br>Board of Directors<br>200 Southern Blvd.<br>P.O. Box 189<br>Albany, NY 12201-0189            | Richard Ball, Commissioner<br>NYS Department of Agriculture and Markets<br>10B Airline Drive<br>Albany, NY 12235  |
| Richard L. Kaufmann, Board Chairman<br>NYS Energy Research and Development<br>Authority<br>17 Columbia Circle<br>Albany, NY 12203-6399                                     | Alicia Barton, President and Chief Executive<br>Officer<br>NYS Energy Research and Development Auth.<br>17 Columbia Circle<br>Albany, NY 12203-6399                       |
| Howard Zemsky, President and CEO<br>Empire State Development Corporation<br>633 Third Avenue – Floor 37<br>New York, NY 10017  | Vinnie Esposito, Regional Director<br>Finger Lakes Region<br>Empire State Development Corporation<br>400 Andrews Street, Suite 300<br>Rochester, NY 14604                 |
| Rossana Rosado, Secretary of State<br>NYS Department of State<br>One Commerce Plaza 99 Washington Avenue<br>Albany, NY 12231-0001  | Hon. Leticia James<br>NYS Attorney General<br>State Capitol Building<br>Albany, NY 12224-0341   |
| Howard A. Zucker, Commissioner of Health<br>NYS Department of Health<br>Corning Tower Empire State Plaza<br>Albany, NY 12237   | RoAnn Destito, Commissioner<br>NYS Office of General Services 41st Floor, Corning Tower<br>Empire State Plaza<br>Albany, NY 12242   |
| John B. Rhodes, Chair and CEO<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                              | James Austin, Chief of Office of Electric, Gas<br>& Water<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350 |
| Michael Saviola<br>New York State Department of Agriculture<br>and Markets<br>1530 Jefferson Road<br>Rochester, NY 14623   | Cassandra Partyka, Assistant Counsel<br>New York State Department of Public Service<br>Empire State Plaza Agency Building 3<br>Albany, NY 12223-1350                      |

| <b><u>FEDERAL AGENCIES</u></b>  |  |
|---|--|
| Steve Metivier, Chief, NY Evaluation Section<br>U.S. Army Corps of Engineers<br>Buffalo District<br>ATTN: Regulatory Branch<br>1776 Niagara Street<br>Buffalo, NY 14207-3199                            | David Stilwell, Field Supervisor<br>US Fish and Wildlife Service<br>3817 Luker Road<br>Cortland, NY 13045  |
| Paige Atkins, Associate Administrator<br>National Telecommunications and<br>Information Administration<br>Herbert C. Hoover Building (HCHB)<br>1401 Constitution Avenue, N.W. Washington,<br>D.C. 20230 | Steven J. Sample<br>Mission Evaluation Branch<br>US Department of Defense Siting<br>Clearinghouse<br>3400 Defense Pentagon, Room 5C646<br>Washington, DC 10301 |
| Jennifer Solomon<br>Eastern Region Regional Administrator<br>Federal Aviation Administration<br>1 Aviation Plaza<br>Jamaica, NY 11434-4809  |  |
| <b><u>LEGISLATIVE REPRESENTATIVES</u></b>   |  |
| Charles E. Schumer<br>Senator, State of New York<br>US Senate<br>Leo O'Brien Building<br>11A Clinton Avenue, Room 420<br>Albany, NY 12207   | Kirsten E. Gillibrand<br>Senator, State of New York<br>US Senate<br>Leo W. O'Brien Building<br>11A Clinton Avenue, Room 821<br>Albany, NY 12207                |
| Chris Collins<br>US Congressman, 27 <sup>th</sup> District<br>8203 Main Street, Suite 2<br>Williamsville, NY 14221  | Michael Ranzenhofer<br>NY State Senator, 61 <sup>st</sup> District<br>8203 Main Street, Suite 4<br>Williamsville, NY 14221                                     |
| Stephen Hawley<br>NY State Assemblyman, 139 <sup>th</sup> District<br>121 N. Main Street<br>Suite 100<br>Albion, NY 14411   |  |
| <b><u>HIGHWAY DEPARTMENTS</u></b>   |  |
| Brian Forsyth, Highway Superintendent<br>Town of Byron Highway Department<br>7028 Bryon Holley Road<br>Byron, NY 14422  | Timothy J. Hens, P.E., Superintendent<br>Genesee County Highway Department<br>153 Cedar Street<br>Batavia, NY 14020  |

| <b><u>SCHOOL DISTRICTS</u></b>   |   |
|--|---|
| Mickey Edwards, Superintendent<br>Byron-Bergen Central School District<br>6917 West Bergen Road<br>Bergen, NY 14416  | Ned Dale, Superintendent<br>Elba Central School District<br>57 South Main Street<br>Elba, NY 14058                              |
| Merritt Holly, Superintendent<br>LeRoy Central School District<br>2-6 Trigon Park<br>LeRoy, NY 14482   |   |
| <b><u>EMERGENCY RESPONDERS</u></b>   |   |
| William A. Sheron, Jr., Sheriff<br>Genesee County Sheriff's Office<br>165 Park Road<br>Batavia, NY 14020-1283  | Bob Mruzcek, Chief<br>Byron Fire Department<br>6357 East Main Street<br>Byron, NY 14422   |
| Brad Nickerson, Captain<br>Byron Rescue Squad<br>6357 East Main Street<br>Byron, NY 14422  | Scott Blossom, Chief<br>South Byron Volunteer Fire Department<br>7389 Rte. 237<br>South Byron, NY 14557                         |
| Timothy J. Yaeger, Coordinator<br>Genesee County Emergency Services<br>7690 State Street Road<br>Batavia, NY 14020-1020  | New York State Police, Troop A<br>Troop Headquarters<br>4525 West Saile Drive<br>Batavia, NY 14020-1095                         |
| John P. Melville, Commissioner<br>NYS Division of Homeland Security and<br>Emergency Services<br>1220 Washington Avenue, State Office<br>Campus<br>Building 7A Suite 710<br>Albany, NY 12242 | Steven Sharpe, Director of Emergency<br>Communications<br>Genesee County Sheriff's Office<br>165 Park Road<br>Batavia, NY 14020 |
| <b><u>ADJACENT MUNICIPALITIES</u></b>  |   |
| Ernie Haywood, Supervisor<br>Town of Bergen<br>10 Hunter Street<br>Bergen, NY 14416  | Gregory Post, Supervisor<br>Town of Batavia<br>3833 West Main Street Road<br>Batavia, NY 14020                                  |
| Donna Hynes, Supervisor<br>Town of Elba<br>7 Maple Avenue<br>Elba, NY 14058  | Robert Clement, Supervisor<br>Town of Stafford<br>8903 Route 237<br>Stafford, NY 14143  |
| Stephen Barbeau, Supervisor<br>Town of LeRoy<br>48 Main Street<br>LeRoy, NY 14482  | Michele Smith, Town Clerk<br>Town of Bergen<br>10 Hunter Street<br>Bergen, NY 14416   |

|   |  |
|---|--|
| Trisha Werth, Town Clerk<br>Town of Elba<br>7 Maple Avenue<br>Elba, NY 14058  | Teressa Morasco<br>Town of Batavia<br>3833 West Main Street Road<br>Batavia, NY 14020  |
| Julie Scheuerlein, Town Clerk<br>Town of Stafford<br>8903 Route 237<br>Stafford, NY 14143   | Patricia Canfield, Town Clerk<br>Town of Le Roy<br>48 Main Street<br>Le Roy, NY 14482  |
| Sean Pogue, Supervisor<br>Town of Barre<br>14317 West Barre Road<br>Albion, NY 14411  | Maureen Beach, Town Clerk<br>Town of Barre<br>14317 West Barre Road<br>Albion, NY 14411  |
| Richard Moy, Supervisor<br>Town of Clarendon<br>16385 Church Street<br>Clarendon, NY 14429  | Susan Colby, Town Clerk<br>Town of Clarendon<br>16385 Church Street<br>Clarendon, NY 14429   |
| <b><u>UTILITIES</u></b>   |  |
| Ave Bie, Board Chair<br>New York Independent System Operator<br>10 Krey Boulevard<br>Rensselaer, NY 12144   | Marcy Reed, President<br>National Grid<br>300 Erie Boulevard West Syracuse, NY 13202-4250  |
| Gil C. Quiniones, President and CEO<br>New York Power Authority<br>123 Main Street<br>Corporate Communications<br>Mail Stop 10 B<br>White Plains, NY 10601-3170 | Carl A. Taylor, President & CEO<br>Rochester Gas & Electric<br>89 East Avenue<br>Rochester, NY 14604   |
| <b><u>PUBLIC INTEREST GROUPS / ADDITIONAL STAKEHOLDERS</u></b>  |  |
| Tom Turnbull, President<br>Genesee County Chamber of Commerce<br>8276 Park Road<br>Batavia, NY 14020  | Christopher Crawford, Executive Director<br>Cornell Cooperative Extension, Genesee County<br>420 East Main Street<br>Batavia, NY 14020                       |
| Julia Foster, Executive Director<br>Genesee County USDA Farm Service Agency<br>29 Liberty Street<br>Batavia, NY 14020-3294                                      | Heath Eisele, District Conservationist<br>USDA Natural Resources Conservation Service<br>West Area<br>29 Liberty Street<br>Suite 3<br>Batavia, NY 14020-3294 |

|   |  |
|---|--|
| Steven G. Hyde, MBA, President and CEO<br>Genesee County Economic Development<br>Center<br>99 MedTech Drive<br>Suite 106<br>Batavia, NY 14020 | Michael J. Eula, County Historian<br>Genesee County History Department<br>County Building 2<br>3837 West Main Street Road<br>Batavia, NY 14020 |
| Bob & Beth Wilson, Co-Historians<br>Byron Town Historian<br>6451 Mill Pond Road<br>Byron, NY 14422  | Ken Radley, President<br>Sleds of Stafford Snowmobile Club<br>PO Box 709<br>Stafford, NY 14143-0709  |
| Bergen Swamp Preservation Society<br>P.O. Box 460<br>Bergen, NY 14416-0460  | Dayle Chapman, President<br>Kiwanis Club of Byron<br>5906 Merrill Road<br>Byron, NY 14422-9523   |
| Roger Hill<br>Tonawanda Seneca Nation Reservation<br>7027 Meadville Road<br>Basom, NY 14013   |  |
| <b><u>AIRPORTS/HELIPORTS</u></b>  |  |
| Jason Long, Manager<br>Genesee County Airport<br>4701 East Saile Drive<br>Batavia, NY 14020   | John Sackett, Manager<br>Sackett Farm Airstrip<br>6548 Route 262<br>Byron, NY 14422  |
| Dennis Gray, Manager<br>Stafford Airport<br>7878 Griswold Road<br>Le Roy, NY 14482  | NYS Trooper Heliport<br>New York State Police, Troop A<br>Troop Headquarters<br>4525 West Saile Drive<br>Batavia, NY 14020-1095                |

|  |  |
|--|--|
| Vito Gautieri, Manager<br>Gautieri Heliport<br>45 Liberty Street<br>Batavia, NY 14020    | Frederick Ely, Manager<br>Ely Air Park<br>7062 South Lake Road<br>Bergen, NY 14416 |
| LeRoy Aviation Services, Inc<br>LeRoy Airport<br>8267 East Main Road<br>Le Roy, NY 14482 |  |
| <b><u>HOST AND ADJACENT LANDOWNERS</u></b>   |  |
| PO Box 13<br>Byron, NY 14422   | 6969 Ivison Road<br>Byron, NY 14422  |
| 6651 Searls Road<br>Byron, NY 14422  | 5870 Walkers Corner Road<br>Byron, NY 14422  |
| PO Box 9 Byron Road<br>Byron, NY 14422   | 5856 Walkers Corners Road<br>Byron, NY 14422                                       |
| 6608 Byron Road<br>Byron, NY 14422   | 5840 Walkers Corners Road<br>Byron, NY 14422                                       |
| PO Box 189 Searls Road<br>Byron, NY 14422  | 7588 Batavia-Byron Road<br>Byron, NY 14422   |
| 6609 Searls Road<br>Byron, NY 14422  | 4803 Chevy Chase Blvd<br>Chevy Chase, MD 20815                                     |
| 6064 North Byron Road<br>Byron, NY 14422   | 7588 Byron Road<br>Byron, NY 14422   |
| 6080 North Byron Road<br>Byron, NY 14422   | 5678 Walkers Corners Road<br>Elba, NY 14058  |
| 5927 North Byron Road<br>Byron, NY 14422   | 5594 Walkers Corners Road<br>Elba, NY 14058  |
| PO Box 189<br>Byron, NY 14422  | 7331 Bank St Road<br>Elba, NY 14058  |
| 6027 Tower Hill Road<br>Byron, NY 14422  | 7678 Batavia-Byron Road<br>Byron, NY 14422   |
| 5992 Tower Hill Road<br>Byron, NY 14422  | 5636 Godfreys Pond Road<br>Bergen, NY 14416  |
| 3846 Westside Dr<br>Churchville, NY 14428  | 7656 Batavia-Byron Road<br>Byron, NY 14422   |
| 5927 Tower Hill Road<br>Byron, NY 14422  | 7653 Byron Road<br>Byron, NY 14422   |
| 7359 Coward Road<br>Byron, NY 14422  | 7865 Route 237<br>South Byron, NY 14557  |
| 7229 Transit Road<br>Elba, NY 14058  | 500 Water St (J-910)<br>Jacksonville, FL 32202                                     |



|   |   |
|---|---|
| 7678 Byron Road<br>Byron, NY 14422      | 6063 Griswold Road<br>Byron, NY 14422   |
| 7164 Bank St Road<br>Byron, NY 14422    | 8026 Caswell Road<br>Byron, NY 14422    |
| 5802 Cockram Road<br>Byron, NY 14422    | 7691 Caswell Road<br>Byron, NY 14422    |
| 6112 Route 262<br>Byron, NY 14422       | 7634 Route 237<br>South Byron, NY 14457 |
| 7046 Bank St Road<br>Byron, NY 14422    | 7738 Route<br>237 Byron, NY 14422       |
| 7000 Bank St Road<br>Byron, NY 14422    | Route 237<br>Byron, NY 14422            |
| 5600 Route 262<br>Elba, NY 14058        | 7620 Ivison Road<br>Byron, NY 14422     |
| 5636 Route 262<br>Elba, NY 14058        | 6369 Randall Road<br>Leroy, NY 14482    |
| 5648 Ebb Road<br>Elba, NY 14058         | Ivison Road<br>Byron, NY 14422          |
| 5645 Route 262<br>Elba, NY 14058        | 7717 Ivison Road<br>Byron, NY 14422     |
| 5577 Route 262<br>Elba, NY 14058        | 7625 Ivison Road<br>Byron, NY 14422     |
| 6171 Oak Orchard Road<br>Elba, NY 14058 | 7644 Coward Road<br>Byron, NY 14422     |
| 5966 Griswold Road<br>Byron, NY 14422   | 7659 Coward Road<br>Byron, NY 14422     |
| 7069 Transit Road<br>Elba, NY 14058     | 7604 Coward Road<br>Byron, NY 14422     |
| 5597 Cockram Road<br>Byron, NY 14422    | 7592 Coward Road<br>Byron, NY 14422     |
| 5591 Cockram Road<br>Byron, NY 14422    | 7613 Coward Road<br>Byron, NY 14422     |
| 5583 Cockram Road<br>Byron, NY 14422    | 7590 Coward Road<br>Byron, NY 14422     |
| 5552 Cockram Road<br>Byron, NY 14422    | 7601 Coward Road<br>Byron, NY 14422     |
| 5575 Cockram Road<br>Byron, NY 14422    | 7613 Coward Road<br>Byron, NY 144229718 |
| 5563 Cockram Road<br>Byron, NY 14422    | 6678 Freeman Road<br>Byron, NY 14422    |
| 6925 Transit Road<br>Elba, NY 14058     | 7636 Coward Road<br>Byron, NY 14422     |

|   |  |
|---|--|
| 5633 Tower Hill Road<br>Byron, NY 14422   | 7690 Coward Road<br>Byron, NY 14422                  |
| 8127 Lewiston Road<br>Batavia, NY 14020   | 7699 Coward Road<br>Byron, NY 14422                  |
| PO Box 40<br>Bergen, NY 14416             | 7697 Coward Road<br>Byron, NY 14422                  |
| 7028 Byron-Holley Road<br>Byron, NY 14422 | 7678 Coward Road<br>Byron, NY 14422                  |
| 6539 Swamp Road<br>Byron, NY 14422        | 7311 Ivison Road<br>Byron, NY 14422                  |
| 5661 Byron-Elba Road<br>Elba, NY 14058    | 6589 Gillett Road<br>Byron, NY 14422                 |
| 309 Ridgemont Dr<br>Rochester, NY 14626   | 7559 Coward Road<br>Byron, NY 14422                  |
| 6934 Bank St Road<br>Byron, NY 14422      | 7521 Coward Road<br>Byron, NY 14422                  |
| PO Box 460<br>Bergen, NY 14416            | 7522 Ivison Road<br>Byron, NY 14422                  |
| 6988 Bank St Road<br>Byron, NY 14422      | 7412 Coward Road<br>Byron, NY 14422                  |
| 5671 Route 262<br>Elba, NY 14058          | 7410 Ivison Road<br>South Byron, NY 14557            |
| 5786 Byron-Elba Road<br>Byron, NY 14422   | 6581 Gillett Road<br>Byron, NY 14422                 |
| 3454 Retsof Road<br>Piffard, NY 14533     | Property Tax Department Kansas City, MO<br>641140430 |
| 6910 Byron Road<br>Byron, NY 14422        | 6552 Townline Road<br>Byron, NY 14422                |
| 5927 Route 262<br>Byron, NY 14422         | 6478 Freeman Road<br>Byron, NY 14422                 |
| 5926 Tower Hill Road<br>Byron, NY 14422   | 6447 Freeman Road<br>Byron, NY 14422                 |
| PO Box 189<br>Byron, NY 14422             | 6456 Freeman Road<br>Byron, NY 14422                 |
| 5931 Tower Hill Road<br>Byron, NY 14422   | 6448 Freeman Road<br>Byron, NY 14422                 |
| 5936 Tower Hill Road<br>Byron, NY 14422   | 6444 Freeman Road<br>Byron, NY 14422                 |
| 1020 Humboldt Pkwy<br>Buffalo, NY 14211   | 6438 Freeman Road<br>Byron, NY 14422                 |
| 6914 Byron Road<br>Byron, NY 14422        | 6437 Freeman Road<br>Byron, NY 14422                 |

|  |  |
|--|--|
| 6811 Byron Road<br>Byron, NY 14422         | 6427 Freeman Road<br>Byron, NY 14422           |
| 6945 Byron Road<br>Byron, NY 14422         | 6385 Freeman Road<br>South Byron, NY 14557     |
| 6101 Tower Hill Road<br>Byron, NY 14422    | 6380 Freeman Road<br>Byron, NY 14422           |
| 6645 Searls Road<br>Byron, NY 14422        | 6381 Freeman Road<br>Byron, NY 14422           |
| PO Box 246<br>Byron, NY 14422              | 6377 Freeman Road<br>South Byron, NY 14557     |
| 6137 Tower Hill Road<br>Byron, NY 14422    | 15 South Spruce Street<br>Batavia, NY 14020    |
| 6633 Batavia-Byron Road<br>Byron, NY 14422 | 6393 Freeman Road<br>Byron, NY 14422           |
| 6189 Tower Hill Road<br>Byron, NY 14422    | 6399 Freeman Road<br>Byron, NY 14422           |
| 8029 Lake St Road<br>LeRoy, NY 14482       | 7389 South Byron Road<br>South Byron, NY 14557 |
| 6178 Tower Hill Road<br>Byron, NY 14422    | 721 Riga Mumford Road<br>Churchville, NY 14428 |
| 6142 North Byron Road<br>Byron, NY 14422   | 6441 Gillett Road<br>Byron, NY 14422           |
| 6646 Byron Holley Road<br>Byron, NY 14422  | 6457 Gillett Road<br>Byron, NY 14422           |
| 6312 Cole Road<br>Byron, NY 14422          | 6507 Gillett Road<br>Byron, NY 14422           |
| 6654 Byron-Holley Road<br>Byron, NY 14422  | 6466 Gillett Road<br>Byron, NY 14422           |
| PO Box 30071<br>Rochester, NY 14603        | 6518 Gillett Road<br>Byron, NY 14422           |
| 6692 Byron-Holley Road<br>Byron, NY 14422  | 6402 Griswold Road<br>South Byron, NY 14557    |
| 1965 Federal Road<br>Linwood, NY 14486     | 6355 Gillett Road<br>Byron, NY 14422           |
| 6706 Byron-Holley Road<br>Byron, NY 14422  | 6355 Cockram Road<br>Byron, NY 14422           |
| PO Box 226<br>Byron, NY 14422              | 6451 Cockram Road<br>Byron, NY 14422           |
| 6760 Route<br>237 Byron, NY 14422          | 6500 Cockram Road<br>Byron, NY 14422           |
| 6738 Byron-Holley Road<br>Byron, NY 14422  | 6509 Cockram Road<br>Byron, NY 14422           |

|  |  |
|--|--|
| 6745 Byron-Holley Road<br>Byron, NY 14422  | 6511 Cockram Road<br>Byron, NY 14422       |
| PO Box 65<br>Byron, NY 14422               | 6501 Cockram Road<br>Byron, NY 144229739   |
| 6776 Byron-Holley Road<br>Byron, NY 14422  | 7211 Ivison Road<br>Byron, NY 14422        |
| 6766 Byron-Holley Road<br>Byron, NY 14422  | 7249 Ivison Road<br>Byron, NY 14422        |
| 6800 Route 237<br>Byron, NY 14422          | 7250 Ivison Road<br>Byron, NY 14422        |
| 6346 Mill Pond Road<br>Byron, NY 14422     | 6662 Cockram Road<br>Byron, NY 14422       |
| 6471 Cole Road<br>Byron, NY 14422          | 6644 Cockram Road<br>Byron, NY 14422       |
| 300 Erie Blvd West<br>Syracuse, NY 13202   | 7310 Cockram Road<br>Byron, NY 14422       |
| 9310 Asbury Road<br>LeRoy, NY 14482        | 6625 Cockram Road<br>Byron, NY 14422       |
| PO Box 303<br>Byron, NY 14422              | 7040 Ivison Road<br>Byron, NY 14422        |
| 6357 East Main Street<br>Byron, NY 14422   | 6950 Ivison Road<br>Byron, NY 14422        |
| 5289 Clinton St Road<br>Batavia, NY 14020  | 6959 Ivison Road<br>Byron, NY 14422        |
| PO Box 247<br>Byron, NY 14422              | 6973 Ivison Road<br>Byron, NY 14422        |
| 6847 Route 237<br>Byron, NY 14422          | 7552 Caswell Road<br>Byron, NY 14422       |
| 6853 Route 237<br>Byron, NY 14422          | 7261 Batavia-Byron Road<br>Byron, NY 14422 |
| 6843 Route 237<br>Byron, NY 14422          | 6951 Ivison Road<br>Byron, NY 14422        |
| 6844 Byron-Holley Road<br>Byron, NY 14422  | 6947 Ivison Road<br>Byron, NY 14422        |
| 6810 Terry Street<br>Byron, NY 14422       | 6946 Ivison Road<br>Byron, NY 14422        |
| 6834 Byron-Holley Road<br>Byron, NY 14422  | 6906 Ivison Road<br>Byron, NY 14422        |
| 6841 Pauline Street<br>Byron, NY 14422     | 6600 Townline Road<br>Byron, NY 14422      |
| 1335 Jefferson Blvd<br>Rochester, NY 14692 | 6584 Townline Road<br>Byron, NY 14422      |

|   |  |
|---|--|
| 6840 Route 237<br>Byron, NY 14422         | 6568 Route 262<br>Byron, NY 14422        |
| 6851 Pauline Street<br>Byron, NY 14422    | 6372 Route 262<br>Byron, NY 14422        |
| 6846 Pauline Street<br>Byron, NY 14422    | 6366 Route 262<br>Byron, NY 14422        |
| 6286 Mae Street<br>Byron, NY 14422        | 6350 E Main Street<br>Byron, NY 14422    |
| 6833 Terry Street<br>Byron, NY 14422      | 6865 Mcelver Street<br>Byron, NY 14422   |
| PO Box 152<br>Byron, NY 14422             | 6349 Route 262<br>Byron, NY 14422        |
| 6818 Terry Street<br>Byron, NY 14422      | 6365 Townline Road<br>Byron, NY 14422    |
| 6814 Terry Street<br>Byron, NY 14422      | 6383 E Main Street<br>Byron, NY 14422    |
| 6816 Route 237<br>Byron, NY 14422         | 6112 Townline Road<br>Byron, NY 14422    |
| 6822 Terry Street<br>Byron, NY 14422      | 6369 Route 262<br>Byron, NY 14422        |
| PO Box 244<br>Byron, NY 14422             | 6393 Townline Road<br>Byron, NY 14422    |
| 6836 Terry Street<br>Byron, NY 14422      | 6384 Townline Road<br>Byron, NY 14422    |
| 6842 Terry Street<br>Byron, NY 14422      | 6380 E Main Street<br>Byron, NY 14422    |
| 6838 Terry Street<br>Byron, NY 14422      | 6376 Route 262<br>Byron, NY 14422        |
| 6839 Terry Street<br>Byron, NY 14422      | 6386 Route 262<br>Byron, NY 14422        |
| 410 Sanford Road<br>Churchville, NY 14428 | 6392 East Main Street<br>Byron, NY 14422 |
| 6856 Terry Street<br>Byron, NY 14422      | 6398 Route 262<br>Byron, NY 14422        |
| 6249 Route 262<br>Byron, NY 14422         | PO Box 727<br>Clarkson, NY 14430         |
| PO Box 29<br>Byron, NY 14422              | 6412 Route 262<br>Byron, NY 14422        |
| PO Box 697<br>Williamson, NY 145890697    | 6775 Townline Road<br>Byron, NY 14422    |
| 6332 Route 237<br>Byron, NY 14422         | 6405 Route 262<br>Byron, NY 14422        |

|  |   |
|--|---|
| 6916 Caswell Road<br>Byron, NY 14422     | 6399 Townline Road<br>Byron, NY 14422             |
| 6908 Caswell Road<br>Byron, NY 14422     | 6775 Ivison Road<br>Byron, NY 14422               |
| 6538 Alleghany Road<br>Basom, NY 14013   | 6483 Townline Road<br>Byron, NY 14422             |
| 6861 Caswell Road<br>Byron, NY 14422     | 6484 Townline Road<br>Byron, NY 14422             |
| 6917 Clinton St Road<br>Bergen, NY 14416 | 6471 Townline Road<br>Byron, NY 14422             |
| 6259 West Main Street<br>Byron, NY 14422 | 6557 Route 262<br>Byron, NY 14422                 |
| 6263 W Main Street<br>Byron, NY 14422    | 7918 Buffalo Street Extension<br>Bergen, NY 14416 |
| 6860 Terry Street<br>Byron, NY 14422     | 6457 Mill Pond Road<br>Byron, NY 14422            |
| 6866 Terry Street<br>Byron, NY 14422     | 6755 Mud City Road<br>Byron, NY 14422             |
| 6269 Route 262<br>Byron, NY 14422        | 6744 Mud City Road<br>Byron, NY 14422             |
| 6286 W Main Street<br>Byron, NY 14422    | 6451 Mill Pond Road<br>Byron, NY 14422            |
| 6282 Route 262<br>Byron, NY 14422        | 7918 Buffalo Street Extension<br>Bergen, NY 14416 |
| 6270 W Main Street<br>Byron, NY 14422    | 6441 Mill Pond Road<br>Byron, NY 14422            |
| 6262 W Main Street<br>Byron, NY 14422    | 6427 Mill Pond Road<br>Byron, NY 14422            |
| PO Box 701<br>Bergen, NY 14416           | 6421 Mill Pond Road<br>Byron, NY 14422            |
| 6308 Route 262<br>Byron, NY 14422        | 6415 Mill Pond Road<br>Byron, NY 14422            |
| 6304 Route 262<br>Byron, NY 14422        | 6409 Mill Pond Road<br>Byron, NY 14422            |
| 6292 Route 262<br>Byron, NY 14422        | 6403 Mill Pond Road<br>Byron, NY 14422            |
| 6288 Route 262<br>Byron, NY 14422        | 6404 Mill Pond Road<br>Byron, NY 14422            |
| 6861 Terry Street<br>Byron, NY 14422     | 6412 Mill Pond Road<br>Byron, NY 14422            |
| 6857 Terry Street<br>Byron, NY 14422     | 6469 Swamp Road<br>Lot 41 Byron, NY 14422         |

|  |  |
|--|--|
| 6293 Route 262<br>Byron, NY 14422            | 6469 Swamp Road<br>Lot 47 Byron, NY 14422  |
| 7164 Byron Road<br>Byron, NY 14422           | Lot 32<br>Byron, NY 14422                  |
| 6301 Route 262<br>Byron, NY 14422            | 3390 Atlantic Avenue<br>Penfield, NY 14426 |
| 6855 Pauline Street<br>Byron, NY 14422       | 7028 South Byron Road<br>Byron, NY 14422   |
| 6861 Pauline Street<br>Byron, NY 14422       | 6461 Swamp Road<br>Lot 22 Byron, NY 14422  |
| 6857 Pauline Street<br>Byron, NY 14422       | 6461 Swamp Road<br>Lot 11B Byron, NY 14422 |
| 6312 Route 262<br>Byron, NY 14422            | 6461 Swamp Road<br>Lot 11A Byron, NY 14422 |
| 2 Jericho Plaza Ste 110<br>Jericho, NY 11753 | 10 Munger Street<br>Bergen, NY 14416       |
| 21 Munger Street<br>Bergen, NY 14416         | 6345 Mill Pond Road<br>Byron, NY 14422     |
| PO Box 338<br>Batavia, NY 14021              | 7739 Ivison Road<br>Byron, NY 14422        |
| 59 South Lake Avenue<br>Bergen, NY 14416     | 6348 Mill Pond Road<br>Byron, NY 14422     |
| 6856 Byron-Holley Road<br>Byron, NY 14422    | 6353 Mill Pond Road<br>Byron, NY 14422     |
| 6850 Byron-Holley Road<br>Byron, NY 14422    | 6996 North Bergen Road<br>Byron, NY 14422  |
| 6859 Route 237<br>Byron, NY 14422            | 6375 Mill Pond Road<br>Byron, NY 144229758 |
| 6863 Route 237<br>Byron, NY 14422            | 6349 Mill Pond Road<br>Byron, NY 14422     |
| 6189 Cockram Road<br>Byron, NY 14422         | 6315 Mill Pond Road<br>Byron, NY 14422     |
| PO Box 175<br>Oakfield, NY 14125             | 6351 Mill Pond Road<br>Byron, NY 14422     |
| 6860 McElver Street<br>Byron, NY 14422       | 6399 Mill Pond Road<br>Byron, NY 14422     |
| 6333 East Main Street<br>Byron, NY 14422     | 6365 Mill Pond Road<br>Byron, NY 14422     |
| 4627 Oak Orchard Road<br>Albion, NY 14411    | 127 East Avenue<br>Batavia, NY 14020       |
| 6728 Oak Orchard Road<br>Elba, NY 14058      | 6741 Mud City Road<br>Byron, NY 14422      |

|   |   |
|---|---|
| 600 Pinnacle Road<br>Pittsford, NY 14534    | 7813 Lewiston Road<br>Batavia, NY 14020       |
| PO Box 2749<br>Addison, TX 75001            | 1048 University Avenue<br>Rochester, NY 14607 |
| 6907 Route 237<br>Byron, NY 14422           | 6551 Swamp Road<br>Byron, NY 14422            |
| 6912 South Byron Road<br>Byron, NY 14422    | 6583 Swamp Road<br>Byron, NY 14422            |
| 6906 Route 237<br>Byron, NY 14422           | 6581 Swamp Road<br>Byron, NY 14422            |
| 6898 Byron-Stafford Road<br>Byron, NY 14422 | 6560 Swamp Road<br>Byron, NY 14422            |
| 6894 South Byron Road<br>Byron, NY 14422    | 6558 Swamp Road<br>Byron, NY 14422            |
| 6922 Route 237<br>Byron, NY 14422           | 350 Highland Dr<br>Lewisville, TX 75067       |
| 6944 Route 237<br>Byron, NY 14422           | 6624 Swamp Road<br>Byron, NY 14422            |
| 6933 Byron Holley Road<br>Byron, NY 14422   | 6657 Swamp Road<br>Byron, NY 14422            |
| 6927 Route 237<br>Byron, NY 14422           | 6587 Swamp Road<br>Byron, NY 14422            |
| 6928 Byron-Holley Road<br>Byron, NY 14422   | 6663 Swamp Road<br>Byron, NY 14422            |
| 6923 Route 237<br>Byron, NY 14422           | 6623 Cole Road<br>Byron, NY 14422             |
| 6913 Byron-Holley Road<br>Byron, NY 14422   | 6597 Fairgrounds Road<br>Byron, NY 14422      |
| 6943 Route 237<br>Byron, NY 14422           | 6697 Swamp Road<br>Byron, NY 14422            |
| 6956 Route 237<br>Byron, NY 14422           | PO Box 701<br>Bergen, NY 144160460            |
| 6939 Route 237<br>Byron, NY 14422           | 6732 Swamp Road<br>Byron, NY 14422            |
| 6948 South Byron Road<br>Byron, NY 14422    | 6718 Swamp Road<br>Byron, NY 14422            |
| 6957 Route 237<br>Byron, NY 14422           | 8479 Violet Lane<br>Batavia, NY 14020         |
| 6966 Byron-Holley Road<br>Byron, NY 14422   | 6792 Swamp Road<br>Byron, NY 14422            |
| 6956 South Byron Road<br>Byron, NY 14422    | 6465 Transit Road<br>Elba, NY 14058           |



|  |  |
|--|--|
| 7052 Route 237<br>Byron, NY 14422          | 6631 Townline Road<br>Byron, NY 14422    |
| 7083 Route 237<br>South Byron, NY 14559    | 6623 Townline Road<br>Byron, NY 14422    |
| 7118 Route 237<br>Byron, NY 14422          | 6664 Townline Road<br>Byron, NY 14422    |
| 7047 Caswell Road<br>Byron, NY 14422       | 6749 Townline Road<br>Byron, NY 14422    |
| 7030 Caswell Road<br>Byron, NY 14422       | 6714 Townline Road<br>Byron, NY 14422    |
| 6981 Caswell Road<br>Byron, NY 14422       | 6707 Route 262<br>Byron, NY 14422        |
| 7120 Byron Road<br>Byron, NY 14422         | 6721 Townline Road<br>Byron, NY 14422    |
| 7078 Batavia-Byron Road<br>Byron, NY 14422 | 6755 Townline Road<br>Byron, NY 14422    |
| 5886 Cockram Road<br>Byron, NY 14422       | 7366 Whitney Mill Road<br>Elba, NY 14058 |
| 5948 Cockram Road<br>Byron, NY 14422       | 2750 Maple Avenue<br>Oakfield, NY 14125  |
| 5953 Cockram Road<br>Byron, NY 14422       | 7469 Bank St Road<br>Elba, NY 14058      |
| 26 Royce Dr<br>Churchville, NY 14428       | 7500 Starowitz Road<br>Elba, NY 14058    |
| 7282 Caswell Road<br>Byron, NY 14422       | 7435 Bank St Road<br>Elba, NY 14058      |
| 7274 Norton Road<br>Elba, NY 14058         | 4803 Barrville Road<br>Elba, NY 14058    |
| 7304 Caswell Road<br>Byron, NY 14422       | 7351 Bank St Road<br>Elba, NY 14058      |
| 2391 Main Road<br>East Pembroke, NY 14056  | 244 Bills Road<br>Macedon, NY 14502      |
| 7251 Caswell Road<br>Byron, NY 14422       | 7374 Bank Street Road<br>Elba, NY 14058  |
| 7223 Caswell Road<br>Byron, NY 14422       | 7345 Bank St Road<br>Elba, NY 14058      |
| 6258 Cockram Road<br>Byron, NY 14422       | 7293 Whitney Mill Road<br>Elba, NY 14058 |
| 6257 Cockram Road<br>Byron, NY 14422       | 7402 Bank St Road<br>Elba, NY 14058      |
| 6372 East Main Road<br>Stafford, NY 14143  | 7335 Whitney Mill Road<br>Elba, NY 14058 |

|  |  |
|--|--|
| 6223 Cockram Road<br>Byron, NY 14422     | 7341 Whitney Mill Road<br>Elba, NY 14058 |
| 6229 Cockram Road<br>Byron, NY 14422     | 10 Forest Avenue<br>Oakfield, NY 14125   |
| 6277 Cockram Road<br>Byron, NY 14422     | 7321 Whitney Mill Road<br>Elba, NY 14058 |
| 6329 Cockram Road<br>Byron, NY 14422     | 29 Vine Street<br>Batavia, NY 14020      |
| 6297 Cockram Road<br>Byron, NY 14422     | 5428 Edgerton Road<br>Elba, NY 14058     |
| 7091 South Byron Road<br>Byron, NY 14422 | 5444 Edgerton Road<br>Elba, NY 14058     |
| 6316 Cockram Road<br>Byron, NY 14422     | 5453 Edgerton Road<br>Elba, NY 14058     |
| 6330 Cockram Road<br>Byron, NY 14422     | 5490 Edgerton Road<br>Elba, NY 14058     |
| 7164 Route 237<br>Byron, NY 14422        | 5518 Edgerton Road<br>Elba, NY 14058     |
| 7156 South Byron Road<br>Byron, NY 14422 | 7250 Transit Road<br>Elba, NY 14058      |
| 7204 South Byron Road<br>Byron, NY 14422 | 5509 Edgerton Road<br>Elba, NY 14058     |
| 7232 Route 237<br>Byron, NY 14422        | 5525 Edgerton Road<br>Elba, NY 14058     |
| 7294 Route 237<br>Byron, NY 14422        | 5533 Edgerton Road<br>Elba, NY 14058     |
| 7400 Caswell Road<br>Byron, NY 14422     | 7040 Transit Road<br>Elba, NY 14058      |
| 7326 Route 237<br>Byron, NY 14422        | 7240 Transit Road<br>Elba, NY 14058      |
| 7398 Route 237<br>Byron, NY 14422        | 7070 Transit Road<br>Elba, NY 14058      |
| 7431 Route 237<br>Byron, NY 14422        | 7788 Bank St Road<br>Batavia, NY 14020   |
| 7455 Route 237<br>Byron, NY 14422        | 5477 Ford Road<br>Elba, NY 14058         |
| 7463 Route 237<br>Byron, NY 14422        | 7856 Bank St Road<br>Batavia, NY 14020   |
| 7482 Route 237<br>Byron, NY 14422        | 6968 Transit Road<br>Elba, NY 14058      |
| 7502 Route 237<br>Byron, NY 14422        | 6934 Transit Road<br>Elba, NY 14058      |

|  |   |
|--|---|
| 7508 Route 237<br>Byron, NY 14422              | 6918 Transit Road<br>Elba, NY 14058             |
| 7516 Route 237<br>Byron, NY 14422              | 7118 Griswold Road<br>Bergen, NY 14416          |
| 7511 Route 237<br>Byron, NY 14422              | 6764 Griswold Road<br>Bergen, NY 14416          |
| 7505 Route 237<br>Byron, NY 14422              | 6786 Griswold Road<br>Bergen, NY 14416          |
| 7508 Mechanic Street<br>South Byron, NY 14557  | 7789 Fotch Road<br>Batavia, NY 14020            |
| 19 Starwood Dr<br>Rochester, NY 14625          | 7744 Byron Road<br>Byron, NY 14422              |
| 7450 Warboys Road<br>Bergen, NY 14416          | 5636 Godfrey's Pond Road<br>Bergen, NY 14416    |
| 7491 Route 237<br>Byron, NY 14422              | 7762 Byron Road<br>Byron, NY 14422              |
| 7494 Route 237<br>Byron, NY 14422              | 7848 Byron Road<br>Byron, NY 14422              |
| 5775 Clinton St Road<br>Bergen, NY 14416       | 7780 Byron Road<br>Byron, NY 14422              |
| 7525 Mechanic Street<br>South Byron, NY 14557  | 7791 Byron Road<br>Byron, NY 14422              |
| 8092 Buckley Road<br>Leroy, NY 14482           | 7763 Byron Road<br>Byron, NY 14422              |
| 7738 Byron Holley Road<br>Byron, NY 14422      | 5619 Griswold Road<br>Byron, NY 144224728       |
| 7517 Mechanic Street<br>South Byron, NY 14557  | 7743 Byron Road<br>Byron, NY 14422              |
| 7513 Mechanic Street<br>Byron, NY 14422        | 5677 Griswold Road<br>Byron, NY 14422           |
| 7512 Mechanic Street<br>South Byron, NY 14557  | 5693 Griswold Road<br>Byron, NY 14422           |
| 7516 Mechanic Street<br>South Byron, NY 14557  | 7070 Byron Road<br>Byron, NY 14422              |
| 7518 Mechanic Street<br>South Byron, NY 14557  | 7865 Byron-Holley Road<br>South Byron, NY 14557 |
| 7521 Route 237<br>Byron, NY 14422              | 5872 Griswold Road<br>Byron, NY 144229729       |
| 7529 South Byron Road<br>South Byron, NY 14557 | 5881 Griswold Road<br>Byron, NY 14422           |
| 18 Gibson Street<br>Bergen, NY 14416           | 5880 Griswold Road<br>Byron, NY 14422           |

|  |  |
|--|--|
| 6313 E Main Street<br>South Byron, NY 14557        | 5866 Griswold Road<br>Byron, NY 14422        |
| 6319 East Main Street<br>South Byron, NY 14557     | 5858 Griswold Road<br>Byron, NY 14422        |
| PO Box 64<br>South Byron, NY 14557                 | 5812 Griswold Road<br>Byron, NY 14422        |
| PO Box 44<br>South Byron, NY 14557                 | 5757 Griswold Road<br>Byron, NY 14422        |
| 6320 Freeman Road<br>South Byron, NY 14557         | 5693 Griswold Road<br>Byron, NY 14422        |
| 6365 Freeman Road<br>Byron, NY 14422               | 5942 Griswold Road<br>Byron, NY 14422        |
| 7591 Byron-Stafford Road<br>South Byron, NY 14557  | 5936 Griswold Road<br>Byron, NY 14422        |
| 7579 Byron-Stafford Road<br>South Byron, NY 14557  | 5884 Griswold Road<br>Byron, NY 14422        |
| 7583 Route 237<br>South Byron, NY 14557            | 7762 Caswell Road<br>Byron, NY 14422         |
| 7587 Byron-Stafford Road<br>South Byron, NY 14557  | 5939 Griswold Road<br>Byron, NY 14422        |
| 7575 Route 237<br>South Byron, NY 14557            | 6119 Griswold Road<br>Byron, NY 14422        |
| 6306 E Main Street<br>South Byron, NY 14557        | 6165 Griswold Road<br>Byron, NY 14422        |
| 6318 East Main Street<br>South Byron, NY 14557     | 7862 Batavia-Byron Road<br>Byron, NY 14422   |
| 6312 East Main Street<br>South Byron, NY 14557     | 5380 Fotch Road<br>Batavia, NY 14020         |
| 6307 East Main Street<br>South Byron, NY 14557     | 7898 Waterman Road<br>Bergen, NY 14416       |
| 6305 East Main Street<br>South Byron, NY 14557     | 6749 Thwing Road<br>Leroy, NY 14482          |
| 6282 Walkers Corners Road<br>Byron, NY 14422       | 6496 Clinton St Road<br>Bergen, NY 144169760 |
| 7582 Byron-Stafford Road<br>South Byron, NY 14557  | 6609 Griswold Road<br>Bergen, NY 14416       |
| 7592 Route 237<br>South Byron, NY 14557            | 6592 Clinton St. Road<br>Bergen, NY 14416    |
| 7586 Route 237<br>South Byron, NY 14557            | 6607 Ivison Road<br>Byron, NY 14422          |
| 6280 Walkers Corners Road<br>South Byron, NY 14557 | 7741 Ivison Road<br>Byron, NY 14422          |

|  |  |
|--|--|
| 6276 Walkers Corners Road<br>Byron, NY 14422       | 7737 Ivison Road<br>Byron, NY 14422            |
| 6272 Walkers Corners Road<br>South Byron, NY 14557 | 6735 Clinton St Road<br>Byron, NY 14422        |
| 6250 Walkers Corners Road<br>South Byron, NY 14557 | 7740 Coward Road<br>Byron, NY 14422            |
| PO Box 274<br>Brockport, NY 14420                  | 6755 Clinton St Road<br>Byron, NY 14422        |
| 6273 Walkers Corners Road<br>Byron, NY 14422       | 460 Leon Drive<br>Fort Ashby, WV 26719         |
| 6266 Walkers Corners Road<br>South Byron, NY 14557 | 7275 Byron Road<br>Byron, NY 14422             |
| 6286 Walkers Corners Road<br>Byron, NY 14422       | 7350 Batavia-Byron Road<br>Byron, NY 144229535 |
| 945 Dennis Road<br>Canaseraga, NY 14822            | 5789 Walkers Corners Road<br>Byron, NY 14422   |
| 6275 Walkers Corners Road<br>South Byron, NY 14557 | 5831 Walkers Corners Road<br>Byron, NY 14422   |
| 6289 Walkers Corners Road<br>Byron, NY 14422       | 5822 Walkers Corners Road<br>Byron, NY 14422   |
| 7538 South Byron Road<br>South Byron, NY 14557     | 5821 Walkers Corners Road<br>Byron, NY 14422   |
| 7530 Route 237<br>South Byron, NY 14557            | 5833 Walkers Corner Road<br>Byron, NY 14422    |
| 7524 South Byron Road<br>South Byron, NY 14557     | 5861 Walkers Corners Road<br>Byron, NY 14422   |
| 6283 Walkers Corners Road<br>Byron, NY 14422       | 6674 Griswold Road<br>Bergen, NY 14416         |
| 6231 Walkers Corners Road<br>Byron, NY 14422       | 7427 Caswell Road<br>Byron, NY 14422           |
| 6249 Walkers Corners Road<br>South Byron, NY 14557 | 7413 Caswell Road<br>Byron, NY 14422           |
| 6199 Walkers Corners Road<br>Byron, NY 14422       | 2050 Winding Road<br>York, PA 17408            |
| 6177 Walkers Corners Road<br>Byron, NY 14422       | 2050 Winding Road<br>York, PA 17408            |
| 6200 Walkers Corners Road<br>Byron, NY 14422       | 5976 Walkers Corners Road<br>Byron, NY 14422   |
| 6242 Walkers Corners Road<br>South Byron, NY 14557 | 5958 Walkers Corners Road<br>Byron, NY 14422   |
| 7545 Caswell Road<br>Byron, NY 14422               | 5928 Walkers Corners Road<br>Byron, NY 14422   |

|  |   |
|--|---|
| 7586 Caswell Road<br>Byron, NY 14422                                 | 6027 Walkers Corners Road<br>Byron, NY 14422                            |
| 7275 Batavia-Byron Road<br>Byron, NY 14422                           | 7549 Bank St Road<br>Elba, NY 14058                                     |
| 7 Chesterbook Lane<br>Pittsford, NY 14534                            | 6283 Cockram Road<br>Byron, NY 14422                                    |
| <b><u>AREA RESIDENTS AND DOCUMENT REPOSITORIES</u></b>               |   |
| Town of Byron Town Hall<br>7028 Byron Holley Road<br>Byron, NY 14422 | Byron-Bergen Public Library<br>13 South Lake Avenue<br>Bergen, NY 14416 |
| 6927 Swamp Road<br>Byron, NY 14422                                   | 7681 Route 237<br>Byron, NY 14422                                       |
| PO Box 54<br>11232 South Lake Road<br>Pavilion, NY 14525             | 7069 Transit Road<br>Elba, NY 14058                                     |
| 15 Washington Avenue<br>Pittsford, NY 14534                          | 6974 West Bergen Road<br>Bergen, NY 14416                               |
| 6906 Route 237<br>Byron, NY 14422                                    | PO Box 206<br>Byron, NY 14422   |
| 7078 Byron Road<br>Byron, NY 14422                                   | 6627 Warboys Road<br>Byron, NY 14422                                    |
| 6970 Warboys Road<br>Byron, NY 14422                                 | 6457 Gillette Road<br>Byron, NY 14422                                   |

**Appendix E**  
**USFWS IPaC Official Species List**



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New York Ecological Services Field Office

3817 Luker Road  
Cortland, NY 13045-9385

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo/es/section7.htm>



In Reply Refer To:

April 16, 2019

Consultation Code: 05E1NY00-2019-SLI-1707

Event Code: 05E1NY00-2019-E-05292

Project Name: Excelsior Energy Center Project

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.). This list can also be used to determine whether listed species may be present for projects without federal agency involvement. New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list.

Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list. If listed, proposed, or candidate species were identified as potentially occurring in the project area, coordination with our office is encouraged. Information on the steps involved with assessing potential impacts from projects can be found at: <http://www.fws.gov/northeast/nyfo/es/section7.htm>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan (<http://www.fws.gov/windenergy/>)



[eagle\\_guidance.html](#)). Additionally, wind energy projects should follow the Services wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

# Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New York Ecological Services Field Office  
3817 Luker Road  
Cortland, NY 13045-9385  
(607) 753-9334

## Project Summary

Consultation Code: 05E1NY00-2019-SLI-1707

Event Code: 05E1NY00-2019-E-05292

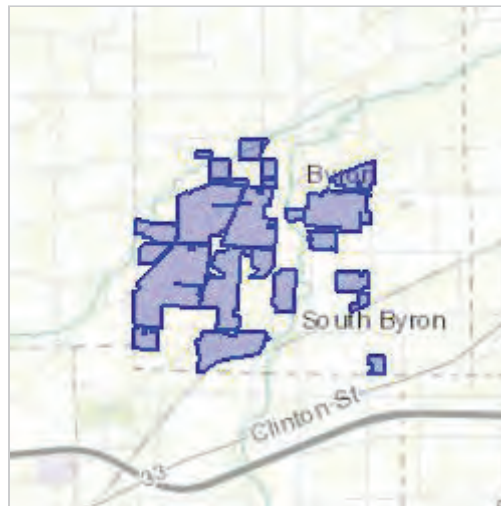
Project Name: Excelsior Energy Center Project

Project Type: POWER GENERATION

Project Description: Excelsior Energy Center, LLC, is proposing to build and operate the Excelsior Energy Center Project in the Town of Byron, Genesee County, New York. It will be located on land leased or purchased from owners of private property. Proposed components include commercial-scale solar arrays, access roads, buried (and possibly overhead) electric collection lines, and electrical interconnection facilities.

### Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/43.044077673500055N78.08684112535347W>



Counties: Genesee, NY

---

## Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### Mammals

| NAME   | STATUS     |
|--|------------|
| Northern Long-eared Bat <i>Myotis septentrionalis</i><br>No critical habitat has been designated for this species.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a> | Threatened |

### Reptiles

| NAME  | STATUS     |
|---|------------|
| Eastern Massasauga (=rattlesnake) <i>Sistrurus catenatus</i><br>No critical habitat has been designated for this species.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/2202">https://ecos.fws.gov/ecp/species/2202</a> | Threatened |

### Flowering Plants

| NAME  | STATUS     |
|---|------------|
| Houghton's Goldenrod <i>Solidago houghtonii</i><br>No critical habitat has been designated for this species.<br>Species profile: <a href="https://ecos.fws.gov/ecp/species/5219">https://ecos.fws.gov/ecp/species/5219</a><br>Species survey guidelines:<br><a href="https://ecos.fws.gov/ipac/guideline/survey/population/1003/office/52410.pdf">https://ecos.fws.gov/ipac/guideline/survey/population/1003/office/52410.pdf</a> | Threatened |

---

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

## **Appendix F**

### **Grassland Breeding Bird Survey Site-Specific Work Plan**



# Grassland Breeding Bird Survey Study Plan

**Draft**

May 3, 2019

## Excelsior Energy Center Project

**Prepared For:**

Excelsior Energy Center, LLC  
700 Universe Blvd, ECC / JB  
Juno Beach, FL 33408

**Prepared By:**

TRC  
2801 Wehrle Drive, Suite 8  
Williamsville, NY 14221

## TABLE OF CONTENTS

|            |   |          |
|------------|---|----------|
| <b>1.0</b> | <b>INTRODUCTION.....</b>                          | <b>1</b> |
| 1.1        | Project Description .....                         | 1        |
| 1.2        | Purpose and Objectives .....                      | 1        |
| <b>2.0</b> | <b>STUDY PROTOCOL.....</b>                        | <b>1</b> |
| 2.1        | Survey Site Selection .....                       | 1        |
| 2.2        | Number and Timing of Surveys .....                | 2        |
| 2.3        | Surveyor Preparedness .....                       | 2        |
| 2.4        | Weather Observations .....                        | 2        |
| 2.5        | Conducting Surveys .....                          | 3        |
| <b>3.0</b> | <b>DATA MANAGEMENT AND RECORDKEEPING .....</b>    | <b>3</b> |
| 3.1        | Recording Data .....                              | 3        |
| 3.2        | Field Quality Assurance and Quality Control ..... | 4        |
| <b>4.0</b> | <b>REPORTING.....</b>                             | <b>4</b> |

## APPENDICES

Appendix A. NYSDEC Survey Protocol for State-listed Breeding Grassland Bird Species



## 1.0 Introduction

### 1.1 Project Description

Excelsior Energy Center, LLC (Excelsior Energy Center), proposes to construct the Excelsior Energy Center Project (Project) in the Town of Byron, Genesee County, New York (Figure 1). The proposed Project will consist of a 280 megawatt (MW) solar energy center with a 20 MW 4-hour duration energy storage system located on land leased or purchased from owners of private property (Figure 1). Proposed components include commercial-scale solar arrays, access roads, buried (and possibly overhead) electric collection lines, and electrical interconnection facilities.

Excelsior Energy Center plans to submit an application to the NYS Board on Electric Generation Siting and the Environment in pursuit of a Certificate of Environmental Compatibility and Public Need to construct the Project under Article 10 of the Public Service Law (PSL). This effort is to support the development of an application to the NYS Board on Electric Generation Siting and the Environment in pursuit of a Certificate of Environmental Compatibility and Public Need to construct the Excelsior Energy Center Project (the Project) under Article 10 of the PSL.

### 1.2 Purpose and Objectives

The purpose of the grassland breeding bird survey is to determine the presence and site use by state-listed threatened or endangered and rare grassland bird species during the breeding survey. Rare, threatened, and endangered (RTE) and special concern (SC) grassland nesting birds in New York State include: Northern Harrier (T), Upland Sandpiper (T), Short-Eared Owl (E), Henslow's Sparrow (T), Sedge Wren (T), Grasshopper Sparrow (SC), Vesper Sparrow (SC), and Horned Lark (SC).

## 2.0 Study Protocol

### 2.1 Survey Site Selection

Survey locations were selected based on the 2015 *Draft Survey Protocol for State-listed Breeding Grassland Bird Species* by the New York State Department of Environmental Conservation (NYSDEC). Based on this draft protocol, suitable grassland sites are areas larger than 12 acres that are dominated by grasses and forbs. Multiple grassland patches may exist in any given area separated by obstructions (e.g., forests, hedgerows, large roads, and developed areas).

Point count surveys are the accepted methodology and each point will be placed in suitable grassland habitat at least 100 meters from obstructions. Each point count location will be a circular plot survey centered on the observation point such that the survey radius from each point is 100 meters. The minimum distance between survey points is 250 meters. Geographic information systems (GIS) tools will be used to juxtapose survey points and buffers over open fields offering grassland habitat in a manner that maximizes the number of points per sampling area.

The Project area consists of buildable areas where Project components and facilities may be constructed, and exclusion areas, or areas where no change to existing land use will result in development of the Project. Both buildable areas and exclusion areas were evaluated for presence and extent of grassland habitat which meets the criteria specified within the *Draft Survey*

*Protocol* and potential survey locations. Surveying grassland habitat within exclusion areas would provide an opportunity for comparison of built areas with control sites in a post-construction monitoring framework, therefore these areas were considered in the survey selection process.

Sixty-nine stationary survey points were initially identified based upon reviews of aerial photography and a preliminary driving survey of the Project Area to determine potential grassland habitat. Two additional stations were later added within exclusion areas following NYSDEC's preliminary review and comment, bringing the total number of stations to 71. These stations are shown in Figure 2.

Following an initial site visit and the first round of surveys, 37 survey locations were determined non-suitable and removed from the study based on conversion of land use to row crop/agricultural cover not consistent with grassland habitat. A revised study area map showing the remaining 32 locations is provided as Figure 3. No Survey locations were located within exclusion areas demarcated on the Study area map as no grassland habitat was identified within these areas. Additional survey locations are likely to be removed as fields within the Project area are converted to row crop agriculture; further revisions to survey locations will be provided in a final report.

## **2.2 Number and Timing of Surveys**

Surveys will be conducted throughout the breeding season for grassland breeding birds. The NYSDEC Draft Protocol defines the breeding season as between May 20 and July 20, the earliest and latest possible dates for breeding activity in New York. The Project area will be visited weekly throughout the study period to achieve consistent temporal presence during each week of the study period. All sites will be surveyed over a two-week period, with each site visited once during the two weeks. No station will be surveyed more than once in a 7-day period.

During each survey period each station will be surveyed once in the morning. Surveys will be completed in the morning starting a half hour before sunrise, when feasible, until no later than 10:30am. The order of surveys will be rotated in each survey period such that each station will be surveyed in different time periods within the survey window over the course of the study. At least one survey will be completed before haying or mowing is done at the site, if possible.

Meander surveys will be conducted while walking between point count stations during each survey period to record species incidentally observed outside of the point-count surveys.

## **2.3 Surveyor Preparedness**

Field biologists with experience in conducting standard point-count surveys, including identification of birds by call, will complete the surveys. In addition, surveyors will receive onsite training to familiarize themselves with the stationary point locations, route between survey patches, and the Project Area as a whole. This training will also note the importance of maintaining the acclimation period between survey points. Biologists will be outfitted with Nikon Monarch 7 10x42 or binoculars of similar or higher quality.

## **2.4 Weather Observations**

Weather conditions will be noted at the beginning of each survey and whenever they change significantly during the surveys. Parameters that will be recorded are:

- wind speed and direction,
- temperature,
- relative humidity,
- barometric pressure,
- percent cloud cover,
- visibility (approximate distance in km), and
- precipitation.

Surveys will not be conducted in adverse weather conditions (e.g. winds >10-12 mph, heavy rain or fog, etc.)

## **2.5 Conducting Surveys**

Point counts will be conducted for five minutes at each survey point during which birds detected by sight and sound will be recorded. Point counts will begin after waiting 1 to 2 minutes in silence after arriving at the point to allow birds to recover from any disturbance (acclimation period). Birds detected within approximately 100 meters of the point will be recorded, as well as any birds detected beyond 100 meters from the point during the five-minute count. Birds detected beyond 100 meters from the point and during meander surveys while walking between the points will be documented in a separate column on field data sheets.

## **3.0 Data Management and Recordkeeping**

### **3.1 Recording Data**

Detailed weather and bird observation data will be collected during each survey. All data will be entered into the cloud-based data management program Fulcrum®, which can be accessed by smart phone or tablet.

At each survey point, information to be recorded will include:

- date,
- observer name(s),
- site name,
- patch name,
- point number,
- start and end time of observation period,
- survey period, and
- weather information.

During the 5-minute point count, the following data will be recorded:

- species identification,
- number of individuals per species,

- mode of detection (song, call, visual)?
- behavior (nesting, flying, perching, singing, etc.), and
- “highest” behavior code for each species.

Field biologists will also record any species heard or seen while doing meander surveys or walking between points and flyover species.

Site description information will also be recorded on a data sheet after completion of the point counts, including:

- patch size,
- habitat type,
- distance from a trail or road,
- distance from hedgerow or woodline,
- vegetation measurements within 25 meters of the survey point:
  - percent cover of each vegetation type (grass, forb, woody, etc.),
  - dominant grass and forb,
  - percent bare,
  - average vegetation height,
  - litter depth,
  - nearest shrub above vegetation height,
- presence of invasive species, and
- recent management practices.

Vegetation measurements will be made using a robel pole, or something comparable, for average height. Density will be measured from four cardinal directions and then averaged.

### **3.2 Field Quality Assurance and Quality Control**

Digital data sheets will be reviewed for completeness and accuracy prior to leaving the survey site. Any discrepancies noted will be resolved at that time.

## **4.0 Reporting**

A final field report will be prepared following completion of the survey season. The report will include:

- data sheets,
- maps with an aerial photograph basemap, including shapefiles,
- Summaries of all observations of grassland birds (and any other state-listed species observed) including observation metadata and shapefiles showing species location on the landscape and movements (when relevant), and
- a conclusion regarding whether more comprehensive studies may be necessary to assess the potential for the Project to negatively affect endangered or threatened grassland nesting species.

**Attachment A: NYSDEC Draft Survey Protocol for State-listed  
Breeding Grassland Bird Species**

**New York State Department of Environmental Conservation**  
**Survey Protocol for State-listed Breeding Grassland Bird Species**  
**DRAFT- 2015**

These protocols describe requirements for determining presence and site use by state-listed threatened/endangered and rare grassland bird species during the breeding season as part of the NYSDEC permit review process for a project application. Rare, threatened, and endangered (RTE) and special concern (SC) grassland nesting birds in New York State include: Northern Harrier (T), Upland Sandpiper (T), Short-Eared Owl (E), Henslow's Sparrow (T), Sedge Wren (T), Grasshopper Sparrow (SC), Vesper Sparrow (SC), and Horned Lark (SC). Habitat characteristics of project sites will also be recorded. Information obtained from these surveys will be considered in determining the possible need for additional comprehensive studies, regulatory review and, if necessary, avoidance, minimization, and/or mitigation strategies pursuant to 6 NYCRR Part 182.9.

### **Survey Periods**

Surveys should be conducted during the breeding season from 20 May through 20 July. The survey protocols are geared toward the **optimal** window for surveys for all RTE grassland species that might be expected, while the regulatory guidelines are intended to span the earliest through latest dates of possible breeding across all RTE grassland species. At a minimum, there will be one survey period in late May, two in June, and one in July. At least one survey period should be completed before any haying or mowing is done at the site. Additional surveys may be required in late April or early May if breeding Short-Eared Owls and/or Northern Harrier are to be targeted. During each survey period, the study area will be surveyed once in the morning. In addition, if the project review indicated the potential for Henslow's Sparrow to be on the site, an evening survey should also be done during each survey period.

### **Establishing Survey Points**

Point count surveys will be the accepted methodology, and all points will be placed in suitable grassland habitat. Suitable grassland sites are areas ("patches") larger than 12 acres (approximately 5 hectares) that are dominated by grasses and forbs. There may be multiple grassland patches at each site separated by obstructions such as forests, hedgerows, large roads, and developed areas. Sampling areas within patches will be defined by outlining the section of each grassland patch that is 100 meters from obstructions as mentioned above.

Each point count will be a circular plot survey centered on the observation point. Each point will have a 100-meter radius and the minimum distance between survey point centers in all directions will be 250 meters. The size of the grassland sampling area determines the number of points that are established. Survey points are placed to obtain the maximum number of points per sampling area. The initial placement of the circles/points does not need to be random, although, they need to be systematically located

to cover the entire sampling area. As many points at each site as possible will be surveyed, but in larger grassland patches the actual points to survey will be randomly selected from all possible points in the sampling area. At least 1 point per 25 acres (approximately 10 hectares) should be surveyed. The surveys should also include qualitative meander surveys. Meander surveys should be done between points and will help to ensure that the most suitable habitats for RTE grassland birds have been adequately covered.

### **Timing of Surveys**

Morning surveys will be conducted starting at a half hour before sunrise when feasible until no later than 10:30am. Evening surveys will be conducted one hour before sunset until two hours after sunset. At least seven days must pass between surveys. The order in which points are surveyed will be reversed during each count, so that the same point is not always surveyed during the same time period. Surveys will not be conducted during inclement weather, including precipitation, fog, or strong winds (i.e. greater than 10-12mph).

### **Conducting Surveys**

Standard point counts are to be conducted for five minutes after an initial 1-2 minutes of silence after arriving at the point to allow birds to recover from any disturbance. All birds observed within approximately 100 meters of points will be recorded, and birds observed beyond 100 meters from the point and during meander surveys (while walking between points) will be recorded in a separate column on the data sheet.

### **Recording Data** (sample data sheet attached)

Data recorded for each survey point will include: date; observer name(s); site name; patch name; point number; start and end time of observation period; survey period; whether an evening survey or not, and weather information (including temperature, wind speed and direction, precipitation and cloud cover). During the five minute point count, species identification, number of individuals per species (<5, 6-10, or > 10, but if possible actual number), behavior (nesting, flying, perching, singing, etc.) and the "highest" behavior code will be recorded for each species. Also recorded will be species heard or seen while doing meander surveys or walking between points and flyover species.

Site description information will be collected on a separate data sheet after the point counts are complete during each survey period and will include information such as: patch size, habitat type, distance from a trail or road, distance from hedgerow or wood line and vegetation measurements within 25 meters of the survey point.

Vegetation measurements are as follows: Percent cover of each vegetation type (i.e. grass, forb, woody, etc.); dominant grass and forb; percent bare; average vegetation height; litter depth; and nearest shrub above vegetation height. A robel pole should be used for average height and density measured from four cardinal directions and then averaged. The

presence of invasive species, and any recent management practices should also be recorded.

### **Reporting Requirements**

A detailed, site-specific work plan, including survey point locations should be developed and submitted to NYSDEC for review and written approval prior to the start of field work. A final report should be submitted to NYSDEC at the conclusion of each year of surveys. Final reports should include: data sheets; maps (ideally recent aerial photographs); summaries of all observations of grassland birds (and any other state-listed species observed); and a conclusion regarding whether more comprehensive studies may be necessary to assess the potential for the project to negatively affect endangered or threatened grassland nesting species.