

NEW YORK STATE BOARD ON ELECTRIC  
GENERATION SITING AND THE ENVIRONMENT

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Case 19-F-0299 - Application of Excelsior Energy Center, LLC  
for a Certificate of Environmental Compatibility and Public Need  
Pursuant to Article 10 of the Public Service Law for Construction  
of a Solar Electric Generating Facility in the Town of Byron,  
Genesee County.

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PETITION TO AMEND CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND  
PUBLIC NEED ON BEHALF OF EXCELSIOR ENERGY CENTER, LLC

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Dated: May 5, 2025

Excelsior Energy Center  
Case No. 19-F-0299  
Petition to Amend Certificate

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## **1.0 Introduction and Summary of the Petition**

Excelsior Energy Center, LLC (Excelsior or Certificate Holder) applied for a Certificate of Environmental Compatibility and Public Need with the New York State Board on Electric Generation Siting and the Environment (Siting Board) pursuant to Public Service Law (PSL) Article 10 to construct and operate the Excelsior Energy Center (Project) in the Town of Byron, Genesee County, New York (Case No. 19-F-0299). The Siting Board granted a Certificate of Environmental Compatibility and Public Need, with Conditions (Certificate), on April 6, 2022. Thereafter, a number of compliance filings have been filed and approved by the New York Public Service Commission (the Commission or PSC), hereafter referred to as the “Certified Project.” Excelsior has determined that modifications are necessary to construct and operate the Project as explained herein.

New land rights were obtained for four parcels that were not previously included within the Certified Project Area. The proposed Modified Project Area, which includes these four new parcels, is shown in Figure 1, with the new parcels indicated by green shading. The purpose of acquiring these new land rights is to provide a route for collection lines that reduces the need to run collection lines within Town- and State-owned public rights-of-way (ROW). The Certified Project has 5,658 linear feet of underground collection line within the public ROW (inclusive of perpendicular road crossings). The addition of the parcels in the Modified Project allows for a 73% reduction in collection routing in public ROW within this portion of the Project, from 5,658 feet in the Certified Design to 1,579 feet.

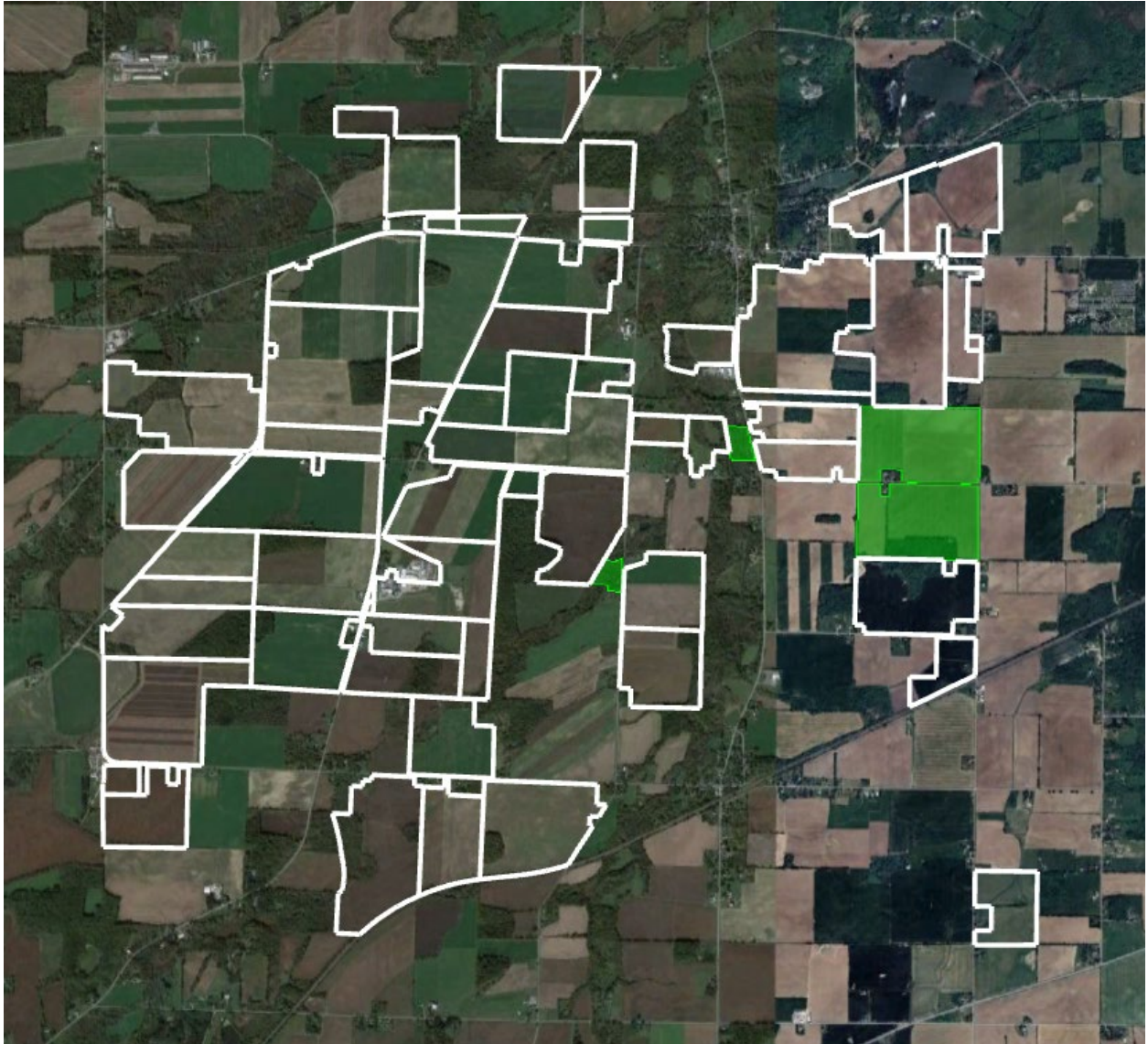
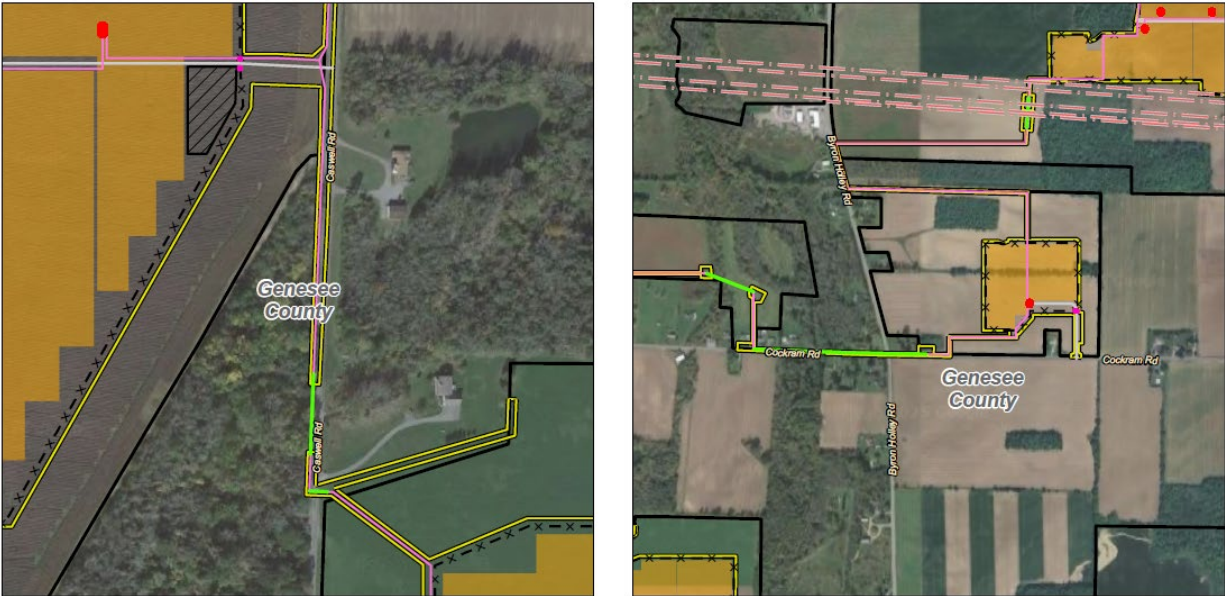


Figure 1 Project Area Map. Certified Project Area (white border) and proposed Modified Project Area (green shading) parcels participating in Excelsior Energy Center.

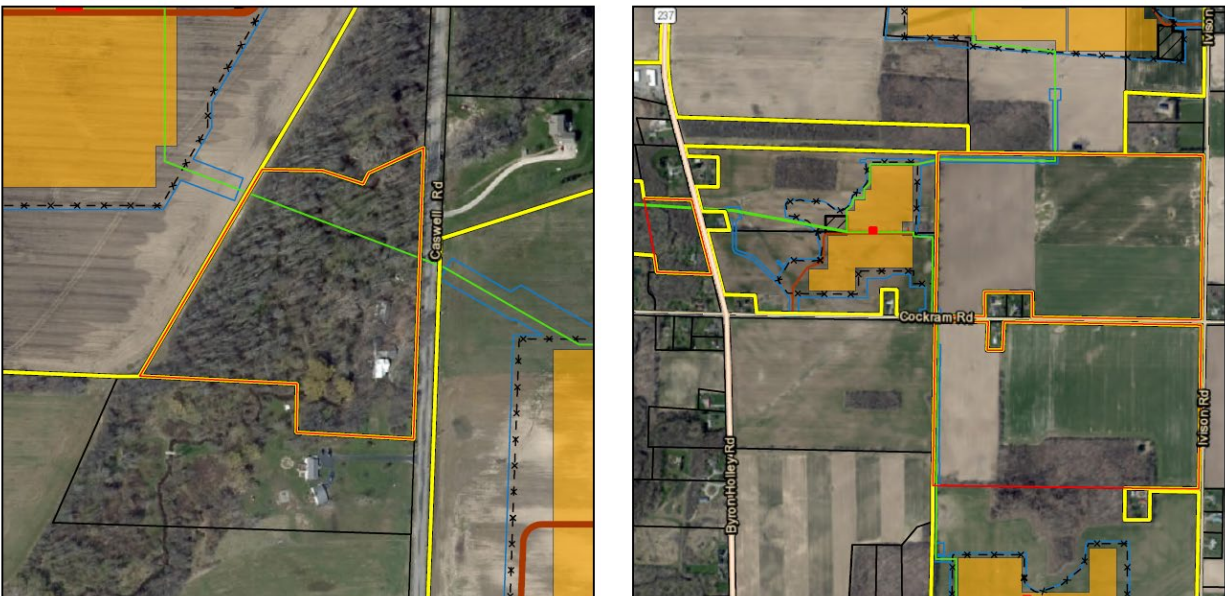
Figures 2 and 3 demonstrate how the proposed Modified Project achieves this reduction. The Certified Project required nearly a mile of installation of the underground collection lines within public roads. The proposed Modified Project avoids the need for nearly all collection line installation within the public ROWs and instead proposes limited perpendicular crossings of the public ROW. By reducing the extent of the underground collection line that is installed in the public ROW, the proposed Modified Project will: reduce workspace that may affect traffic patterns, reduce impacts to publicly maintained roads, and will not permanently increase any environmental or resource impacts.



Accordingly, pursuant to PSL § 162 and 16 NYCRR §1000.16, Excelsior respectfully requests that the Certificate be modified to allow for the installation of underground collection line in the additional parcels.



**Figure 2.** Certified Design showing collection line installed in public ROW along Caswell Road, Byron Holley Road, and Cockram Road.



**Figure 3.** Modified Design showing perpendicular crossing of Caswell Road and Byron Holley Road.

The instant Petition includes supporting documentation and studies to demonstrate that the proposed Modified Project does not significantly increase or create new and different impacts compared to those previously found to meet applicable standards by the Siting Board at the time the Certificate was issued. Pursuant to PSL § 161(1), the Chair of the Siting Board has the authority to grant amendments to a Certificate after consultation with the permanent members of the Siting Board provided no party opposes such request within 30 days. A hearing is not required on a petition seeking an amendment unless the Secretary determines that an amendment is “likely to result in (i) any significant adverse environmental impacts of such facility, determined according to 6 NYCRR §617.7(c), in comparison to such impacts of the facility as proposed or approved, or (ii) the identification of an adverse environmental impact not included in the application.” 16 NYCRR §1000.2(ak).

The regulations at 16 NYCRR §1000.16(b)(1) and (2) require a petition to “describe the amendments proposed and the relevant engineering design, performance or operational changes proposed, with supporting documentation to describe the nature of the changes caused by or related to the amendment,” and include “the data and information required by this Subchapter that would otherwise be necessary to support an application for a certificate.” The Secretary of the Commission, in consultation with Department of Public Service Staff (DPS Staff), the New York State Department of Environmental Conservation (NYSDEC), and the New York State Department of Health (NYSDOH), is tasked with determining whether the proposed modifications would result in a significant adverse increase to environmental impacts as compared to the Certified Project. 16 NYCRR §1000.16(a).

As shown in the subsequent sections, figures, and appendices herein, the modifications proposed for the Project, on balance, are very minimal and routine in nature and do not result in permanent adverse environmental impacts. The four added parcels will support buried collection line solely, with no permanent above-ground impacts or new structures. The majority of collection line installation will be installed by direct burial via cable plow and/or trenching. Both techniques cause temporary impacts and surface conditions would be returned to near existing conditions, to the maximum extent practicable, once



construction is completed in accordance with the requirements of the Certificate Conditions. Sensitive environmental resources and public roadway impacts will be avoided by utilizing horizontal direction drilling (HDD) for collection line installation. The proposed Modified Project Area reduces the linear feet of collection line installed in the public ROW, compared to that approved in the Certified Project. There will be no additional noise or visual impacts throughout Project operation, and the proposed collection line routing complies with applicable Certificate Conditions and crossing agreements.

Of the new, four parcels, two are classified as agricultural (Code 120: Field Crops) and two are classified as residential (Code 210: One family residential) by the New York State Office of Real Property Services (NYSORPTS). There are no permanent above-ground impacts, and all temporary soil disturbances will be restored in accordance with the Project's approved Site Engineering and Environmental Plan (SEEP). No permanent impacts to agricultural operations will occur as a result of the proposed Modified Project.

There is also no increase in permanent adverse impacts to streams or wetlands. The new parcels were evaluated and surveyed for wetlands and streams in October 2024 (Attachment A). The collection line installations are proposed as HDD in areas of wetlands and/or streams specifically to avoid impacts to these resources located on the parcels. Previously Certificate-approved HDD methodology and best practices will be complied with to prevent any inadvertent returns, including the previously approved Inadvertent Return Plan. Additionally, no tree clearing is proposed on any of the four new parcels.

The new parcels were not surveyed as part of the previously completed Phase IB or Phase IB Addendum I reports that were submitted to and accepted by the Office of Parks, Recreation, and Historical Preservation (OPRHP). As a result, Excelsior has been performing additional Phase IB surveys in areas where any substantial ground-disturbing features overlap with areas of high archaeological sensitivity. This includes additional surveys in the portions of the four additional parcels where cable trenching and/or HDD bore pits are proposed. A letter of no effect confirming the Project will not result in impacts to archaeological resources will be filed once obtained from OPRHP.

For all these reasons, the proposed Modified Project will not create any significant adverse impacts, new or otherwise, compared to the Certified Project, and accordingly, the Modified Project does not rise to the level of a “revision”, and hearings are not required.

## **2.0 Project Description**

### **(a) Certified Project Description Relevant to the Petition**

In relevant part, the Certified Project consists of 4,578 feet of underground collection lines that would be installed in the following public ROWS:

- Caswell Road
- Byron Holley Road
- Cockram Road

### **(b) Proposed Modified Project Description**

The proposed Modified Project’s generating capacity will not change. The proposed Modified Project solely includes four additional private parcels that have been acquired since the Certificate was granted, totaling 206 acres. These parcels would be used for the installation of collection lines and would replace the installation of a portion of the collection lines described in the Certified Project. These parcels lie within the Study Area reviewed in the Certified Project. These parcels would support buried collection line only, with no permanent above-ground impacts.

The Project modification proposed herein as part of the instant Petition includes the following:

- Addition of four new parcels to the Project Area
  - o Parcel ID: 7.-1-64.1
  - o Parcel ID: 7.-1-62.1
  - o Parcel ID: 6.-1-17
  - o Parcel ID: 7.-1-84
- Updated underground collection line design.
- Decrease in linear feet of collection lines within public ROW

The proposed modification is described in further detail below and in the corresponding Exhibit sections. Excelsior evaluated the proposed Modified Project to ensure it would not result in any significant adverse change in environmental impacts from the Project as Certified or identification of a type of an adverse environmental impact not considered in the Application or subsequently approved compliance filings. 16 NYCRR §1000.2(ak).

Table 1 describes the overall changes made between the Certified Project and the proposed Modified Project as it pertains to the four parcels being added.

**Table 1. Summary of Project Changes**

Component of Feature	Certified Project	Proposed Modified Project
Total Project Area Acreage	3,443 acres	3,649 acres
Number of Parcels	56	60
Linear Feet of Collection Line within public ROW (Caswell, Byron Holley, and Cockram Roads)	4,578 feet within ROW (parallel) 1,080 feet perpendicular crossing	0 feet within ROW (parallel) 1,579 feet perpendicular crossing

### **3.0 Exhibits and Studies Applicable to the Proposed Modification**

The proposed modification to the Project has been evaluated in light of the resources that might be affected. The subsequent analyses update the information provided in the Certified Project's Article 10 Application. Exhibits or resource-specific studies that are not included herein were deemed not to be affected by the proposed modification (i.e., addition of four parcels for buried collection line) to the Certified Project.

**Table 2. List of Updated Exhibits and Studies Applicable to Proposed Project Modification**

Application Exhibit Number	Exhibit Name	Updated and/or Supporting Documentation
Exhibit 3	Location of Facilities	Project Mapping
Exhibit 4	Land Use	Evaluation of Land Use Types, Project Mapping
Exhibit 11	Preliminary Design Drawings	Design drawing set showing collection line modifications/additions

Application Exhibit Number	Exhibit Name	Updated and/or Supporting Documentation
Exhibit 13	Real Property	Project mapping, additional project memorandums
Exhibit 20	Cultural Resources	Update on Phase IB investigations
Exhibit 21	Geology	Updated soil analysis
Exhibit 22	Terrestrial Ecology and Wetlands	Impacts to terrestrial cover types and wetlands/streams. Updated mapping and reporting of invasive species
Exhibit 34	Electric Interconnections	Updated collection lines

**(a) Exhibit 3. Locations of Facilities (§1001.3)**

Figure 3-1, as part of the Certified Project, included the following Project Components: underground collection line, fence line, solar arrays, inverters, access roads, and laydown yard. Revised Figure 3-1 depicts the Certified Project and Project Components as well as the additional parcels included in the proposed Modified Project. Areas included in the proposed Modified Project have been marked with red hatching and represent the locations of additional Project Components. Buried collection lines are the only Project Components proposed within these additional parcels.

**(b) Exhibit 4. Land Use (§1001.4)**

In this section, updated impacts to land use from the Certified Project to the proposed Modified Project are presented, as applicable.

The Project was certified to be located on the following land use types, according to the NYSORPTS classification: Agricultural and Residential. There will be 2,905 linear feet of collection line installed underground in two agricultural parcels. A total of 3.1 acres of workspace will be needed during installation. The collection line that is installed in agricultural land will be installed consistent with the New York State Department of Agriculture and Markets (NYSAGM) guidelines and the Certificate Conditions, and only

result in a temporary impact. The collection line in the agricultural parcels will be installed by direct burial via cable plow and/or open trench. A total of 1,429 linear feet of collection line will be installed via HDD methods on the two residential parcels to avoid impacts to wetlands and/or streams located on each parcel. Portions of collection line that are installed via HDD will have minimal, temporary workspace for HDD bore pit locations. Any ongoing agricultural practices will not be affected on the additional parcels except for the collection line installation; any agricultural practices can resume following the completion of the installation.

Updated Figure 4-3 has been revised to represent tax parcel information for the additional parcels in the proposed Modified Project. The additional parcels are outlined in red and can be seen on sheets 12, 13, 16, 17, and 18.

The entire Certified Project Area is encompassed within the Town of Byron's zoning regulations and mapping. The Certified Project Area consists primarily of the A-R District, with some portions zoned as R-1, C-2, and I-1. The four new parcels associated with the proposed Modified Project Area are similarly located within the Town's R-1 District and A-R Districts, both of which do not differ from the Certified Project. The tax parcel ID and associated zoning for each of the additional parcels encompassed within the proposed Modified Project are:

- 7.-1-64.1 - Agricultural- Residential (A-R District)
- 7.-1-62.1 - Agricultural- Residential (A-R District)
- 6.-1-17 - Agricultural- Residential (A-R District)
- 7.-1-84 - Residential (R-1 District)

The Siting Board determined, inter alia, that the permissible uses and undergrounding requirements within these Zoning Districts were unreasonably burdensome and elected not to apply both provisions to the Project Area. See Case 19-F-0299, *Excelsior Energy Center, LLC*, Order Granting Certificate of Public Need, with Conditions (Apr. 6, 2022), at 78–19, App'x A at 5. The four parcels, located directly adjacent to the Certified Project Area, therefore, are within the zoning districts whose requirements were waived by the Siting Board.

Each additional parcel of the proposed Modified Project is within Genesee County Agricultural District 4. The minimal incremental impact (3.14 acres) to Agricultural Districts as part of the Modified Project are temporary in nature, related to use for collection line, HDD bore pits, and work locations, which will be restored consistent with the NYSAGM guidelines and Certificate Conditions following construction. The utility mapping, tax parcel mapping, and zoning information is also consistent with the Certified Project.

**(c) Exhibit 11. Preliminary Design Drawings (§1001.11)**

Updated Appendix 11-1 includes the preliminary design drawings which reflect the proposed modifications to the Project. Project component adjustments on the additional parcels and adjacent parcels are shown in Attachment B. Collection line routing was updated to reduce the total linear feet of collection line that was originally proposed to be installed in the public ROW. Previously Certificate-approved HDD and trenching methodology and best practices will be complied with for collection line installation.

**(d) Exhibit 13. Real Property (§1001.13)**

Updated Figure 4-3 reflects the proposed Modified Project Area's additional parcels with tax parcel ID's, property owners, and proposed Project Components (i.e., solely the underground collection lines). Updated Appendix 13-1 has also been revised to include memorandums of solar option, lease, and easement agreements for the four additional parcels that have been included in the proposed Modified Project Area.

**(e) Exhibit 20. Cultural Resources (§1001.20)**

Excelsior is performing additional Phase IB surveys, including in the portions of the four additional parcels where cable trenching and/or HDD bore pits are proposed. These additional surveys began in Fall 2024 and were halted by frozen ground in December. The surveys recommenced in March 2025 and are on track to be completed in May 2025. OPRHP has reviewed the Fall 2024 data, which was provided via an Addendum II Survey Report and OPRHP has concurred that no further surveys are needed in any of the completed surveyed areas that will be impacted by construction. Respective of the four new parcels, the Addendum II Survey Report included a section of parcel 7.-1-62.1 near its frontage along Cockram Road. The only remaining survey effort within the four added

parcels is along an approximately 250-foot stretch of hedgerow on parcel 7.-1-62.1, the results of which will be provided to OPRHP as an end-of-field report in May 2025. Any archaeological resources that may be discovered during this final round of testing will be avoided by the Project, and a letter of no effect confirming that the Project will not result in impacts to archaeological resources will be filed once obtained from OPRHP.

**(f) Exhibit 21. Geology (§1001.21)**

With the addition of the four new parcels within the proposed Modified Project Area, an updated Table 21-5 is provided to reflect updated soil mapping within the new parcels.

**Updated Table 21-5. Summary of Soil Types**

<b>Map Unit Symbol</b>	<b>Map Unit Name</b>	<b>Slope (%)</b>	<b>Acreage within new parcels</b>
ApA	Appleton silt loam, 0 to 3 percent slopes	2	26.98
CaA	Canandaigua silt loam, 0 to 2 percent slopes	1	0.42
CeB	Cazenovia silt loam, 3 to 8 percent slopes	5	0.15
CeC	Cazenovia silt loam, 8 to 15 percent slopes	12	0.05
CIB	Collamer silt loam, 2 to 6 percent slopes	4	0.94
FpA	Fredon gravelly loam, 0 to 3 percent slopes	2	0.07
Ld	Lamson very fine sandy loam	1	2.33
LmA	Lima silt loam, 0 to 3 percent slopes	2	29.20
LmB	Lima silt loam, 3 to 8 percent slopes	5	41.07
LoA	Lyons soils, 0 to 3 percent slopes	1	3.52
OdB	Odessa silt loam, 3 to 8 percent slopes	5	1.12
OnA	Ontario loam, 0 to 3 percent slopes	2	15.23
OnB	Ontario loam, 3 to 8 percent slopes	6	67.07
OnC	Ontario loam, 8 to 15 percent slopes	12	6.18
OvB	Ovid silt loam, 3 to 8 percent slopes	5	1.28



Map Unit Symbol	Map Unit Name	Slope (%)	Acreage within new parcels
Te	Teel silt loam	1	1.73
Wk	Wakeville silt loam	1	9.00
<b>Grand Total</b>			<b>206.34</b>

There are no new soil types that comprise the additional parcels compared to the Certified Project. Of the 206 acres added to the Certified Project, 155.4 acres (75%) is classified as Prime Farmland, 6.7 acres (3%) is considered Farmland of Statewide Importance, and 5.9 acres (3%) is considered not Prime Farmland. Since the proposed collection line installation methods are not proposed to be changed from the Certified Project, and because impacts will be temporary and all disturbance will be restored consistent with Certificate Conditions, there will not be any significant adverse environmental impacts or new adverse impacts, compared to the Certified Project.

Updated Figure 21-2 has been revised to represent the additional parcels with representative soil types, and farmland classification.

**(g) Exhibit 22. Terrestrial Ecology and Wetlands (§1001.22)**

Table 22-3 has been updated to reflect temporary and permanent impacts to plant communities, based on National Land Cover Database (NLCD) data, due to project construction for the new parcels in the proposed Modified Project.

**Updated Table 22-3. Impacts to Plant Communities within New Parcels**

Cover Type/Habitat	Temporary Impact (acres)	Permanent Loss (acres)	Use by Project Component (acres)
Agricultural Land/Cultivated crops	3.08	-	-
Developed Land, Open Space	0.05	-	-
Developed Land, Low Intensity	0.01	-	-
Forestland	<0.00	-	-
Open Water	-	-	-
Successional Old Field	-	-	-

Cover Type/Habitat	Temporary Impact (acres)	Permanent Loss (acres)	Use by Project Component (acres)
Successional Shrubland	-	-	-
<b>Total</b>	<b>3.14</b>	-	-

With respect to the four additional parcels, only temporary impacts are proposed for the installation of underground collection lines and the clearing of vegetation needed for work space during the construction phase of the Project. These temporary impacts will occur only to the agricultural land/cultivated crops plant community type. There are 0.06 acres of temporary impact to two developed land NLCD community types. There is no tree clearing proposed on the four new parcels. Temporarily impacted areas will be restored to pre-construction conditions to the maximum extent practicable, consistent with the Certificate Conditions.

The proposed Modified Project collection lines have been intentionally sited along the perimeter of active agricultural fields to minimize impacts and tree clearing. Landowners were consulted to confirm that installation of the collection lines will not impact their agricultural practices. Permanent impacts to agricultural land are avoided as the four parcels being added will support buried collection lines only. There are 3.08 acres of temporary impacts to agricultural land that will be necessary for HDD bore pits and cable burial within these parcels. Within agricultural land, 2,905 linear feet of collection lines are proposed, and 3.14 acres of temporary workspace are proposed.

### **Wetlands and Waterbodies**

Excelsior commissioned TRC to perform a supplemental wetland delineation for the four additional parcels. The wetland delineation occurred during November 26<sup>th</sup> – December 3<sup>rd</sup>, 2024, and focused on the portions of the four new tax parcels where buried collection lines are being proposed (Survey Area). The wetland delineation resulted in the identification of one wetland and four streams within the Survey Area. The single delineated wetland within the Survey Area was an extension of a previously delineated wetland located on an adjacent parcel to the west and was included in the Certified Project

Area. Of the four streams identified, two (S-IBP-1 and S-JJB-3) were extensions of previously delineated streams located on adjacent parcels that were included in the Certified Project Area. For more details on the results of the wetland delineation see the Revised Wetland Delineation Memorandum included as Appendix A.

The proposed Modified Project design included in Updated Appendix 11-1 does not propose any wetland or stream impacts on the new parcels in the proposed Modified Project Area. Streams S-MWG-1, S-MWG-2, S-IBP-1, S-JJB-3 will be avoided by installing the collection line via HDD. As a result of adding the new parcels, HDD entry and exit bore pits for crossing these streams and wetland will be located on adjacent parcels, previously included in the Certified Project Area. The HDD workspace and access to the HDD bore pit on the adjacent parcel east of Byron Holley Road (Parcel ID: 7.-1-65.2) will occur partially within the 100-foot adjacent area of W-JJB-10. This activity will include temporary workspace for the HDD bore pit. The collection line would cross underneath W-JJB-10, Byron Holley Road, and the entirety of Parcel ID: 7.-1-84, and will exit on the adjacent parcel to the west (Parcel ID: 7.-1-86.121). There is a total of 0.36 acres of temporary impact to the 100-foot adjacent area of W-JJB-10. The adjacent area to be disturbed consists of previously disturbed agricultural land. In accordance with approved SEEP Section B.17.d.v.a., following construction-related disturbance, disturbed portions of the adjacent areas will be restored by seeding with a solar farm grass seed mix comprised of grasses that are native and/or indigenous to the area.

Additional temporary impacts are proposed to wetland W-IBP-01 only for matted construction access, totaling 0.098 acres. Restoration activities for the 0.098 acres of wetland and 0.36-acre adjacent area are detailed in the Project's revised Wetland Restoration Plan (Attachment D). The Certificate Holder will comply with all Certificate Conditions and previously approved best management practices related to HDD activities in proximity of wetlands and adjacent areas to avoid and minimize any potential temporary impacts. There will be no permanent impacts to these very small acreages of wetland and adjacent areas. The addition of the new parcels and updated collection line design, therefore, will not increase permanent impacts to wetland or streams.

Figure 4 of the Revised Wetland Delineation Memorandum has been included to represent delineated features for the proposed Modified Project Area and proposed new underground collection lines, within the additional parcels.

### **Invasive Species**

Baseline mapping for invasive species within the Certified Project Area was conducted in September 2024 to update the existing mapping conducted in 2019. The Invasive Species Management and Control Plan was updated to include the baseline mapping and additional information on individual species identified. TRC identified 20 species of invasive plants, which are listed as prohibited on the *Prohibited and Regulated Invasive Species* list published by the NYSDEC, during the 2019 and 2024 surveys. The updated plan is provided as Updated Appendix 22-8 and is inclusive of the new parcels in the proposed Modified Project Area. The management practices and control methods are consistent with what was approved for the Certified Project.

### **(h) Exhibit 34. Electric Interconnection (§1001.34)**

The Modified Project proposes 4,335 feet of underground collection lines to be installed in the four new parcels. There is a decrease of 4,080 linear feet of collection line that will be installed in public ROW as a result of the four added parcels. The only collection line that will be installed in the public ROW will be a result of perpendicular crossings. The increase in collection line length does not result in increased environmental impacts because all impacts are temporary, and restoration will be performed according to the Certificate Conditions. Considering that impacts associated with the Proposed Modified Project are temporary, but the disturbance to motorists, together with any potential issues that the Project could confront with the Town concerning impacts to roadways, these considerations render the increase in footage negligible and certainly not adverse or significant. To the contrary, the proposed Modified Project reduces impacts to the Certified Project by reducing collection line in the public ROW by 73%. The updated Preliminary Design Drawings for the proposed Modified Project included in Updated Appendix 11-1 depict the proposed collection line system.

#### 4.0 Conclusion

For the reasons stated above, the proposed Modified Project will not result in a significant adverse increase to environmental impacts as compared to the Certified Project (16 NYCRR §1000.16(a)) and will not create a new adverse impact compared to the Certified Project. To the contrary, Excelsior respectfully submits that the proposed Modified Project reduces impacts compared to the Certified Project. Accordingly, the proposed Modified Project does not rise to the level of a “revision”, and hearings are not required. Excelsior respectfully requests that the Petition be granted as soon as practicable, as installation of the proposed collection line in the four new parcels is scheduled to begin in July 2025.

Respectfully submitted,

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