NORTH SENECA
SOLAR PROJECT

# APPENDIX 12-G
# Net Conservation Benefit Plan
# ORES Permit Application No. 23-00036

**REDACTED**

**REVISION 1**

# Net Conservation Benefit Plan

## North Seneca Solar Project

## Towns of Junius and Waterloo

## Seneca County, New York

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## ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| EDR | Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. |
| IPaC | Information for Planning and Consultation |
| MW | megawatt |
| NCBP | Net Conservation Benefit Plan |
| NYCRR | New York Codes, Rules and Regulations |
| NYNHP | New York Natural Heritage Program |
| NYSDEC | New York State Department of Environmental Conservation |
| ORES | New York State Office of Renewable Energy Siting and Electric Transmission |
| POI | point of interconnection |
| PV | photovoltaic |

# 1.0 INTRODUCTION

On behalf of North Seneca Solar Project, LLC (the Applicant), Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR) has prepared this Net Conservation Benefit Plan (NCBP) for the North Seneca Solar Project, a proposed solar energy generation facility and associated infrastructure (the Facility) located in Seneca County, New York. This NCBP supports a siting permit application (Application) under Article VIII of the New York State Public Service Law (Article VIII; formerly known as Section 94-c of the New York State Executive Law).[1] This NCBP will also assist the New York State Office of Renewable Energy Siting and Electric Transmission (ORES), in consultation with the New York State Department of Environmental Conservation (NYSDEC), in their review of the proposed Facility in accordance with Title 16 New York Codes, Rules and Regulations (16 NYCRR) 110000-6.4(o), as well as the State Endangered Species Act (Environmental Conservation Law §11-0535 [ECL Article 11]) and its implementing regulations at Title 6 New York Codes, Rules and Regulations (6 NYCRR) Part 182. The 6 NYCRR Part 182 regulations include a listing of endangered species, threatened species, and species of special concern in New York, requirements for incidental take permit applications, and standards for issuance of incidental take permits. As described in 6 NYCRR Part 182.11, an endangered or threatened species mitigation plan (i.e., an NCBP) must include:

> *(1) the measures the applicant will undertake to minimize and fully mitigate impacts to any species listed as endangered or threatened in this Part for which the incidental take permit application is being submitted. All proposed measures shall be capable of successful implementation, and shall be legally, technologically, economically and biologically practicable;*
>
> *(2) data and information to ensure that the taking sought to be authorized by the incidental take permit will not reduce the likelihood of the survival or recovery of the species in New York;*
>
> *(3) a proposed method for monitoring the effectiveness of the plan; and*
>
> *(4) a description of the funding source, the level of funding, and the guarantee or assurance of funding that the applicant will provide to implement the endangered or threatened species mitigation plan including but not limited to bonds, insurance, or escrow.*

Therefore, this NCBP has been prepared in accordance with the substantive requirements of 6 NYCRR Part 182, which requires the preparation of a mitigation plan that will result in a net conservation benefit to state listed species that may be affected by Facility construction and/or operation. According to 6 NYCRR Part 182.2, the term "net conservation benefit" is defined as follows:

> *(n) Net conservation benefit means a successful enhancement of the species' subject population, successful enhancement of the species' overall population or a contribution to the*

[1] Chapter XI, Title 16 of the New York Codes, Rules and Regulations Part 1100. Available at: https://ores.ny.gov/regulations.

> *recovery of the species within New York. To be classified as a net conservation benefit, the enhancement or contribution must benefit the affected species listed as endangered or threatened in this Part or its habitat to a greater degree than if the applicant's proposed activity were not undertaken.*

**BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** Given the requirements discussed previously and the potential impacts to this species, this NCBP identifies: (1) the estimated potential take of the listed species (in the form of adverse modification of occupied habitat); (2) avoidance and minimization measures that have been implemented to reduce potential Facility-related impacts; and (3) mitigation measures that will be implemented by the Applicant to ensure that a net conservation benefit is provided for the potentially affected species.

## 2.0 FACILITY LOCATION AND DESCRIPTION

The Facility is a proposed solar energy generation facility of up to 90 megawatts (MW) located in the Towns of Junius and Waterloo in Seneca County, New York (Figure 1). The Facility will contribute to New York State's renewable energy generation goals.[2] The Facility will consist of photovoltaic (PV) panel arrays and associated infrastructure, including inverters, a collection substation, a point of interconnection (POI) substation, temporary construction laydown areas, access roads, fencing, and electrical collection lines. The lands that were evaluated to host the Facility (i.e., the Facility Site) comprise approximately 940 acres (Figure 2).

## 3.0 OCCUPIED HABITAT AND ANTICIPATED IMPACTS

### 3.1 Existing Conditions

In developing the Application for the Facility, the Applicant has gathered a substantial amount of information on existing ecological conditions within the Facility Site. A Wildlife Site Characterization (WSC) Report was prepared and submitted to ORES and the NYSDEC in April 2022 as part of the Article VIII pre-application process. In addition, breeding bird surveys were completed for the Facility in 2022, and winter raptor surveys were completed for the Facility in 2022-2023. Based on these assessments, the lands currently under consideration for the Facility are primarily composed of agricultural land that is actively managed to produce row and field crops (i.e., corn, alfalfa hay, other hay, and soybeans). In addition, some deciduous forestland, woody wetlands, and disturbed/developed areas (primarily rural single-family houses, farms, and

[2] The Climate Leadership and Community Protection Act (CLCPA) of 2019 amended previous energy goals and mandates that 70% of the state's electricity come from renewable sources by 2030, and that 100% of the state's electrical supply must be emission-free by 2040.

associated yards) are present. Application Exhibit 11 (Terrestrial Ecology) includes additional information about ecological communities and habitat types in the vicinity of the Facility.

## 3.2 Summary of Agency Database Review, Consultation, and Field Survey Results

In addition to data collected on existing conditions with the Facility Site, the Applicant and EDR have engaged in consultations with federal and state agencies regarding the potential presence of threatened and endangered species in the vicinity of the Facility Site. These consultations included database review via the U.S. Fish and Wildlife Service online Information for Planning and Consultation (IPaC) system, as well as correspondence with the New York Natural Heritage Program (NYNHP), the NYSDEC, and ORES. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** A site-specific request for documented occurrences in the vicinity of the Facility Site was submitted to the NYNHP on April 4, 2022, and a response was received on May 19, 2022. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION**

Following receipt of this NYNHP response letter, EDR consulted with ORES and the NYSDEC staff to obtain occurrence records for any additional state listed species that may have been documented in the vicinity of the Facility Site. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION**

Confirmed breeding behaviors were not observed for any state listed endangered or threatened species during on-site breeding bird surveys or winter raptor surveys. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** Therefore, available data support the presence of occupied wintering habitat in some areas (Section 3.4). Descriptions and habitat requirements for this species are provided in Section 3.3.

Following the completion of pre-application avian field studies, EDR estimated where occupied habitat areas may be located within the Facility Site based on state listed endangered or threatened species documented during the on-site field surveys. An occupied habitat evaluation memorandum containing EDR's analysis was provided to ORES on July 21, 2023.

On August 14, 2023, the Applicant and EDR met with ORES and the NYSDEC to discuss the results of on-site avian field surveys that were conducted in 2022 and 2023, occupied habitat boundaries, estimated Facility-related impacts to occupied habitat, and requirements for the NCBP. ORES issued a Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit for the Facility on August 30, 2023 (refer to Section 3.4 for additional details). In the summer of 2024, the Applicant made some minor adjustments to the Facility layout, which resulted in slight changes to the level of habitat modification and required mitigation. These layout adjustments including shifts to the proposed collection and point of interconnection substation locations and associated components, as well as minor refinements to other Facility components (e.g., fencing, electrical collection lines), were made to address design constraints while continuing to minimize impacts to a variety of different resources. Given these updates to the Facility layout, EDR prepared a revised estimate of impact areas and mitigation requirements. This revised estimate and a request for a revised Determination were provided to ORES on October 7, 2024 (EDR, 2024; refer to Section 3.4 for additional details).

## 3.3 Covered Species Descriptions and Habitat Requirements

**BEGIN CONFIDENTIAL INFORMATION <**

[redacted]

[redacted]>**END CONFIDENTIAL INFORMATION** The Facility's ground disturbance during construction and aboveground footprint as part of operations, within occupied habitat areas, is considered to represent 'take' of such habitat. The habitat impacts are assessed and defined in Section 3.5. Because of the anticipated habitat loss and displacement impacts, the Applicant is required to identify avoidance and minimization actions, as well as mitigation strategies for unavoidable impacts that will satisfy the requirements of Article VIII. As indicated previously, the Applicant must provide an endangered or threatened species mitigation plan and demonstrate that mitigation activities will provide a net conservation benefit to the listed species, which is defined as a successful enhancement of the species' overall or local population or a contribution to the recovery of the species in New York. This NCBP has been developed to meet these objectives.

## 3.4 Occupied Habitat Determination

According to 6 NYCRR Part 182.2, occupied habitat is defined as follows:

> *(o) Occupied habitat means a geographic area in New York within which a species listed as endangered or threatened in this Part has been determined by the department [i.e., the NYSDEC] to exhibit one or more essential behaviors. Once identified as occupied habitat, the department will continue to consider that area as occupied habitat until the area is no longer suitable habitat for that species or monitoring has indicated that reoccupation by that species is unlikely.*

Within ORES-identified occupied habitat, the Facility's ground disturbance during construction and aboveground footprint as part of operations is considered to represent 'take' of such habitat. Occupied habitat impacts are assessed and defined in Section 3.5. Because of the anticipated habitat loss and displacement impacts, the Applicant is required to identify avoidance and minimization actions, as well as mitigation strategies for unavoidable impacts that will satisfy the requirements of Article VIII. As of early November 2024, ORES was in the process of reviewing the current Facility layout and issuing a revised Determination. **BEGIN CONFIDENTIAL INFORMATION**<[redacted]>**END CONFIDENTIAL INFORMATION**

[redacted]

## 3.5 Adverse Modification of Occupied Habitat

**BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** According to 6 NYCRR Part 182.2, the terms "take," "lesser acts," and "adverse modification of habitat" are defined as follows:

> *Take or taking means the pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting of any species listed as endangered or threatened in this Part, and all lesser acts such as disturbing, harrying or worrying.*
>
> *Lesser acts means, for the purposes of this Part, harassing, harming, maiming, wounding or collecting any species listed as endangered or threatened in section 182.5 of this Part, any act which is likely to cause the death of or injury to any individual member(s) of a species listed as endangered or threatened in section 182.5 of this Part, any adverse modification of habitat of any species listed as endangered or threatened in section 182.5 of this Part, and any interference with or impairment of an essential behavior of a species listed as endangered or threatened in section 182.5 of this Part.*
>
> *Adverse modification of habitat means any alteration of the occupied habitat of any species listed as endangered or threatened in this Part that, as determined by the department, is likely to negatively affect one or more essential behaviors of such species.*

Based on these definitions, Facility-related take is anticipated to result from adverse modification of occupied wintering habitat (a lesser act). Based on the current locations of Facility components with significant aboveground footprints (i.e., fenced PV arrays, access roads, the collection substation, and the POI substation), ORES, has determined that adverse modification of occupied habitat will occur. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION**

## 3.6 Population Jeopardy Assessment

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[redacted]>END CONFIDENTIAL INFORMATION

Other areas of Seneca County and in the broader central New York landscape comprise very similar ecological community and habitat types to those found at the Facility Site, and therefore, are expected to include large areas of suitable habitat for the species in question. In addition, high-quality habitat for this species exists within 10 miles of the Facility Site (e.g., the Montezuma National Wildlife Refuge). Therefore, population-level effects to the listed species in question are not anticipated as a result of construction or operation of the proposed Facility, especially given that the Applicant will offset potential impacts by providing a net conservation benefit.

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# 4.0 AVOIDANCE AND MINIMIZATION

## 4.1 Avoidance and Minimization Measures

The Applicant has refined the Facility design multiple times in order to avoid and minimize impacts to a variety of sensitive resources. In particular, where possible, the Facility has been sited to avoid impacts to wetlands, streams, shrubland, and forestland. All of these ecological community types represent important habitats used by a wide variety species and taxonomic groups. By comparison, the development of existing agricultural fields subject to regular disturbance (especially existing row cropland used for corn and/or soybean production) would be expected to result in comparatively fewer biological and ecological impacts. In siting the Facility, minimal forest clearing and wetland disturbance will occur in areas that will host Facility PV arrays, and these ecologically valuable habitats within and adjacent to the Facility Site will be largely avoided.

In addition, the following efforts have been implemented to avoid and minimize impacts to state listed grassland bird species to the extent practicable given myriad other siting constraints inherent in the development of a solar energy generation facility:

- Many Facility components were intentionally sited in areas primarily used for agricultural row crop (e.g., corn, soybean) production, which typically represent lower-quality habitat than grass-dominated areas.
- To the greatest extent practicable, the Applicant has adjusted the Facility layout to propose PV arrays in areas not containing occupied habitat for BEGIN CONFIDENTIAL INFORMATION<[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]>**END CONFIDENTIAL INFORMATION**
- The Applicant will hire an independent, third-party environmental monitor to oversee compliance with environmental commitments and siting permit requirements throughout construction of the Facility. This will support impact avoidance and minimization for multiple state listed species, along with other natural resources.
- All temporarily disturbed grassland vegetation communities will be re-graded to pre-construction contours and reseeded with a native or naturalized grassland seed mix (unless returning to agricultural use or otherwise specified by the landowner).

The parcels that comprise the Facility Site represent a community of landowners who are willing and interested in hosting the Facility, but only under very specific circumstances that are compatible with their preferences. Parcels outside the Facility Site were typically not available for development; therefore, it was not possible to shift Facility components to these areas, even if they would otherwise be suitable for hosting Facility components or allow for further avoidance or minimization of impacts. Landowners agreeing to host Facility components typically have very specific requirements regarding where the solar infrastructure can and cannot be located on their land so that they can continue to utilize portions of their property for activities like farming. Similarly, some landowners may be willing to host certain Facility components, but not others. Additionally, even if landowners are amenable to a shift in Facility components, such a change is often not possible given the setbacks and zoning requirements of the local municipalities, which reduce flexibility for Facility design shifts. As stated previously, the Applicant has shifted Facility components to avoid other sensitive resources (e.g., wetlands and forestland) existing on these parcels during Facility

design, in addition to avoiding areas of grassland habitat, to the extent practicable. Therefore, the Facility layout alternative available to the Applicant is to not locate Facility components on a particular property at all, which would undermine the economic viability of the Facility and New York State's ability to meet the renewable energy and greenhouse gas emission reduction goals outlined in the Climate Leadership and Community Protection Act (CLCPA, 2020).

New York State policy and laws—most notably the CLCPA—require the development of renewable energy facilities in order to significantly increase generating capacity from renewable sources, meet clean energy goals, and combat climate change (CLCPA, 2020). The Facility has been designed to avoid and minimize impacts to environmental resources to the extent practicable, while also making an important contribution to renewable energy generation in New York State and furthering well-established policy goals. As many policymakers, scientists, and developers are aware, climate change represents one of the most significant threats to a variety of wildlife species, potentially threatening two-thirds of North American bird species with extinction (National Audubon Society, 2019). Thus, any unavoidable impacts to bird species and their habitats from development of renewable energy facilities, such as the Facility, must be balanced against the environmental threats to those species and their habitats posed by a failure to address and mitigate climate change.

# 5.0 PROPOSED MITIGATION

## 5.1 Net Conservation Benefit

Because adverse modification of occupied habitat will result from the construction and operation of the Facility, the Article VIII regulations require the Applicant to show that the proposed mitigation measures can achieve a net conservation benefit for the species concerned. **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** According to 6 NYCRR Part 182.2, the term "net conservation benefit" is defined as follows:

> *(n) Net conservation benefit means a successful enhancement of the species' subject population, successful enhancement of the species' overall population or a contribution to the recovery of the species within New York. To be classified as a net conservation benefit, the enhancement or contribution must benefit the affected species listed as endangered or threatened in this Part or its habitat to a greater degree than if the applicant's proposed activity were not undertaken.*

ORES and NYSDEC staff have indicated in other renewable energy facility proceedings that the most straightforward and most widely accepted method for providing a net conservation benefit for adverse modification of state listed grassland bird habitat is through the protection and management of suitable state listed grassland bird species habitat within a facility site. However, if suitable land is unavailable within a facility site, creation of suitable habitat within a facility site, or protection and management of suitable habitat within the vicinity of a facility site or within the broader region could also be undertaken to provide a net conservation benefit to the species. The Article VIII uniform standards and conditions allow for a

permittee to pay a mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund commensurate with the actual acreage of occupied habitat taken. Alternatively, permittee-implemented grassland bird habitat conservation (i.e., physical mitigation) may be proposed, with 0.2 acres of mitigation for every 1.0 acre of occupied grassland bird wintering habitat determined to be taken. This mitigation to impact ratio is based on a mitigation project term of 30 years, during which grassland habitat is managed for six 5-year lifecycles of habitat succession. Five of the lifecycles contribute to the net conservation benefit.

Based on these mitigation ratios and EDR's revised estimate of impacts to occupied habitat, EDR calculated the total mitigation acreage needed for permittee-implemented grassland bird habitat conservation. These calculations are summarized in Table 1.

**Table 1. Mitigation Calculations**

**BEGIN CONFIDENTIAL INFORMATION<**

| Species and Occupied Habitat Types | Estimated Adversely Modified Habitat (acres)[1] | Mitigation to Impact Ratio | Estimated Required Mitigation Area (acres) |
|---|---|---|---|
| | | | |

**>END CONFIDENTIAL INFORMATION** Proposed mitigation actions are discussed further in Sections 5.2 and 5.3.

## 5.2 Proposed Mitigation Areas

Mitigation of impacts to occupied habitat for listed grassland bird species can be accomplished by leasing or purchasing suitable land, preferably in close proximity to a facility, establishing protective land agreements (e.g., deed restriction, conservation easement), and implementing a management regime that maintains the mitigation areas as suitable grassland habitat for use by the affected species. **BEGIN CONFIDENTIAL INFORMATION<** **>END CONFIDENTIAL INFORMATION** Based on ORES and NYSDEC recommendations, mitigation areas for permittee-implemented grassland bird habitat conservation need to be open, contiguous, and at least 25 acres in size. The Applicant has identified suitable land parcels for mitigation within and in the vicinity of the Facility Site in order to attain the required mitigation acreage. The proposed mitigation parcels and the proposed mitigation areas within these parcels are depicted in Figure 3, and additional information for each proposed mitigation area is provided in Table 2. **BEGIN CONFIDENTIAL INFORMATION<**

[redacted]**>END CONFIDENTIAL INFORMATION** The required mitigation acreage will be selected from these parcels, and each individual mitigation area will be at least 25 acres in size or will connect with another adjacent mitigation area. However, if the option becomes available prior to Facility construction, the Applicant may instead elect to pay a mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund.

**Table 2. Proposed Mitigation Area Information**

**BEGIN CONFIDENTIAL INFORMATION<**

| Tax Parcel ID | Open Acreage Proposed for Mitigation | Recent Cover Types | Notes |
|---|---|---|---|
| [redacted] | [redacted] | Corn (2023, 2022, 2021) and Soybeans (2020, 2019) | [redacted] |
| | | Corn (2019-2022), Soybeans (2020-2023), Alfalfa (2021-2022) | |
| | | Corn (2019, 2020, 2022) and Soybeans (2019, 2021, 2023) | |
| | | Soybeans (2019, 2020, 2022), Corn (2021, 2023) | |
| | | Alfalfa (2019-2023) | |

**>END CONFIDENTIAL INFORMATION**

## 5.3 Mitigation Area Suitability

Based on the information presented previously, the proposed mitigation areas are suitable for the purposes of providing a net conservation benefit to the **BEGIN CONFIDENTIAL INFORMATION<** [redacted] **>END CONFIDENTIAL INFORMATION** Along with adequate overall area to mitigate for adverse modification impacts within multiple successional cycles, the proposed areas also have the following advantages:

- **BEGIN CONFIDENTIAL INFORMATION<** [redacted]
- [redacted]
- [redacted] **>END CONFIDENTIAL INFORMATION**

- The proposed mitigation areas primarily open agricultural fields that can be readily converted to areas dominated by grasses and forbs. Portions currently containing woody vegetation can be managed and converted to open habitat, if necessary.
- The proposed mitigation areas include more than 25 acres of open field area (or connect to form open areas totaling more than 25 acres).

## 5.4 Mitigation Area Management, Monitoring, and Reporting

Based on review of NYSDEC best management practices for grassland birds (NYSDEC, 2024b), the following general practices will be considered for the proposed grassland bird mitigation area:

- Within fields over 25 acres in size, avoid mowing or conducting other management activities from April 23 to August 15, inclusive (the nesting season) and November 1 to March 31, inclusive (the wintering season), unless fields targeted for management have been surveyed to confirm that state listed endangered, threatened, and/or special concern grassland bird species are not nesting within or using the fields.
- Avoid disturbance from motorized vehicle operation or other loud noise from November 1 to March 31 to protect wintering raptors.
- Complete mowing or other management activities between August 16 and October 31, or conduct surveys to confirm that state listed endangered, threatened, and/or special concern grassland bird species are not nesting within or using the fields prior to conducting management activities during the nesting season or winter season.
- Manage land for a minimum of 5 years to begin showing benefits for grassland birds and continue appropriate management actions at defined intervals to achieve long-term suitability for the target species.

Based on these recommendations, as well as the specific habitat requirements of the listed species in question, the Applicant proposes a mitigation area management regime that will include the following steps for the first 5-year successional cycle: (1) a baseline assessment of existing conditions at the mitigation area in 2025; (2) preliminary site management activities in 2025 and 2026 (to define the mitigation area boundaries, establish optimal vegetation characteristics, reduce fragmentation of the grassland, and enhance existing habitat suitability); (3) prohibition of mechanized disturbance, loud noise, and public access within these managed areas during the wintering and nesting seasons (as defined by the NYSDEC); and (4) rotational maintenance mowing of the mitigation area each year after preliminary site management activities to maintain and enhance grassland habitat during the first 5-year successional cycle.

The baseline assessment of existing conditions at the mitigation areas will be performed in 2025 to document existing vegetation characteristics, cover types, and habitat suitability during the growing season and during the wintering season. During the baseline assessment site visits, areas dominated by woody vegetation and areas within wetlands will be reviewed to identify vegetation management and/or access constraints, as well as potential alternate management techniques. Following the baseline assessment, preliminary site management activities are anticipated to include: (1) marking the mitigation area boundaries with posted signs; (2) initial mowing of the mitigation areas; (3) clearing of trees and shrubs

within select portions of the mitigation areas (if necessary); and (4) preparing and seeding the mitigation areas with a grass-dominant seed mix (if necessary).

Rotational maintenance mowing will then be performed in subsequent years, whereby a portion of the total mitigation acreage will be mowed each subsequent year to a target height range of approximately 6-12 inches (15-30 centimeters [cm]). The remaining portions of the mitigation areas will not be mowed during a given year, thereby providing a range of different vegetation heights and composition throughout the successional cycle. Appropriately sized rotational mowing zones will be defined within each of the mitigation areas. Mitigation areas totaling more than 30 acres will have three rotational mowing zones, and mitigation areas totaling less than 30 acres will have two rotational mowing zones. The anticipated timeline for mowing events in each rotational mowing zone is presented in Table 3.

**BEGIN CONFIDENTIAL INFORMATION**<[redacted]>**END CONFIDENTIAL INFORMATION** In this way, the mitigation areas will be managed in order to provide suitable habitat for the species addressed by this NCBP.

At the end of the first 5-year successional cycle, the Applicant will identify vegetation management activities needed to retain conditions suitable for ongoing use by grassland bird species. If necessary, portions of the mitigation areas will be mowed and/or brush-hogged between August 16 and October 31 to control woody vegetation that may have become established during the first successional cycle and restore optimal vegetation conditions. Depending on the level of woody vegetation encroachment, these activities may occur within only certain portions of the mitigation areas, or throughout the entire mitigation areas. This will serve as the start of the second 5-year successional cycle. A similar management regime will be implemented for the remaining years within the 30-year mitigation term, consisting of rotational maintenance mowing for multiple years, followed by end of cycle maintenance to control woody vegetation (if necessary). Monitoring of vegetation/habitat conditions will occur during the first successional cycle. Based on ORES review and recommendations, the subsequent management regime will either follow the same regime for the rest of the mitigation term, or a new management regime will be developed in consultation with ORES.

In order to document that the mitigation areas are being appropriately protected and managed, the Applicant proposes to: (1) record information regarding the timing of preliminary site management and yearly vegetation management activities; and (2) collect photographs of vegetation and habitat conditions before and after preliminary site management activities, before and after yearly vegetation management activities, and during the winter season. In addition, the Applicant will provide documentation indicating that mitigation area boundaries are marked with posted signs and that existing fence lines (if any) are maintained. The Applicant will also provide a discussion of any threats and/or risks to the target species that existed prior to implementation of the mitigation measures, and how such threats and/or risks were reduced or eliminated. Finally, if any state listed species are observed utilizing the mitigation areas, these

observations will be documented. This information will be collected each year during the first successional cycle and provided to ORES by December 31 of each calendar year.

**BEGIN CONFIDENTIAL INFORMATION**<[redacted]>**END CONFIDENTIAL INFORMATION** The anticipated timeline for mitigation activities is summarized in Table 3.

**Table 3. Anticipated Timeline for Mitigation Activities**

| Term Year | Year | Mitigation Activity Type | Description of Mitigation Activities |
|---|---|---|---|
| N/A | 2025 | Baseline Assessment | Site visits to document existing conditions during the wintering and breeding seasons |
| N/A | 2026 | Preliminary Site Management | Mark mitigation area boundaries; remove woody vegetation in select areas; prepare fields; perform initial mowing |
| 1 | 2027 | Annual Maintenance | Rotational mowing within each mitigation area (first third or first half, depending on total size) |
| 2 | 2028 | Annual Maintenance | Rotational mowing within each mitigation area (second third or second half, depending on total size) |
| 3 | 2029 | Annual Maintenance | Rotational mowing within each mitigation area (last third or first half, depending on total size) |
| 4 | 2030 | Annual Maintenance | Rotational mowing within each mitigation area (first third or second half, depending on total size) |
| 5 | 2031 | End of Cycle Maintenance | Mowing and/or woody vegetation control throughout all Zones as needed |
| 6 | 2032 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2031 based on consultation with ORES |
| 7 | 2033 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2031 based on consultation with ORES |
| 8 | 2034 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2031 based on consultation with ORES |
| 9 | 2035 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2031 based on consultation with ORES |
| 10 | 2036 | End of Cycle Maintenance | Mowing and/or woody vegetation control as needed – Zone(s) to be identified in consultation with ORES |
| 11 | 2037 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2036 based on consultation with ORES |
| 12 | 2038 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2036 based on consultation with ORES |
| 13 | 2039 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2036 based on consultation with ORES |
| 14 | 2040 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2036 based on consultation with ORES |
| 15 | 2041 | End of Cycle Maintenance | Mowing and/or woody vegetation control as needed – Zone(s) to be identified in consultation with ORES |

| Term Year | Year | Mitigation Activity Type | Description of Mitigation Activities |
|---|---|---|---|
| 16 | 2042 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2041 based on consultation with ORES |
| 17 | 2043 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2041 based on consultation with ORES |
| 18 | 2044 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2041 based on consultation with ORES |
| 19 | 2045 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2041 based on consultation with ORES |
| 20 | 2046 | End of Cycle Maintenance | Mowing and/or woody vegetation control as needed – Zone(s) to be identified in consultation with ORES |
| 21 | 2047 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2046 based on consultation with ORES |
| 22 | 2048 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2046 based on consultation with ORES |
| 23 | 2049 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2046 based on consultation with ORES |
| 24 | 2050 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2046 based on consultation with ORES |
| 25 | 2051 | End of Cycle Maintenance | Mowing and/or woody vegetation control as needed – Zone(s) to be identified in consultation with ORES |
| 26 | 2052 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2051 based on consultation with ORES |
| 27 | 2053 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2051 based on consultation with ORES |
| 28 | 2054 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2051 based on consultation with ORES |
| 29 | 2055 | Annual Maintenance | Rotational mowing – Zone(s) to be identified in 2051 based on consultation with ORES |
| 30 | 2056 | End of Cycle Maintenance | Mowing and/or woody vegetation control – Zone(s) to be identified in consultation with ORES; final mitigation management event |

## 5.5 Declaration of Covenants and Restrictions

This NCBP anticipates that the Applicant will enter protective land agreements for mitigation parcels as identified in Section 5.2, or similar suitable land, and that the Applicant will implement site management of the mitigation parcels in accordance with the provisions of the NCBP herein. The Applicant will provide proof of entering the land agreements to ORES prior to construction once the agreements have been executed and will notify ORES in writing that it has completed preliminary site management of the mitigation areas. If ORES agrees that preliminary site management of the mitigation areas is completed, the Applicant will be instructed to execute and record a Declaration of Covenants and Restrictions that is approved by ORES. The Applicant shall record the Declaration of Covenants and Restrictions within 30 days of its execution in the office of the recording officer for the applicable county where the mitigation parcels are situated in the manner prescribed by Article 9 of the Real Property Law.

The Declaration of Covenants and Restrictions will incorporate by reference the measures required by this NCBP, which will primarily include the activities associated with management of the mitigation areas to maintain habitat as open grassland and documentation of vegetation and habitat conditions. In addition, the Declaration of Covenants and Restrictions shall protect the mitigation areas from being used for purposes incompatible with grassland bird habitat mitigation during the 30-year mitigation term.

As an alternative to physical mitigation, the Applicant may elect to pay a mitigation fee commensurate with the actual acreage of occupied habitat taken into the Endangered and Threatened Species Mitigation Bank Fund. Documentation of this payment would be provided to ORES, as required.

## 5.6 Financial Assurance

Funding for the implementation of this NCBP will be provided by the Applicant throughout the 30-year mitigation term. As set forth in the previous sections, the actions required for mitigation area management will include: (1) preliminary site management at the start of the first 5-year successional cycle; (2) yearly vegetation management to maintain optimal vegetation and habitat conditions; and (3) mowing and vegetation control every five years. The Applicant and/or one or more contractors hired by the Applicant will perform management activities. Funding will also be provided by the Applicant for the mitigation monitoring and reporting activities described in Section 5.4.

The Applicant, a subsidiary of Savion, LLC, which is a Shell Group portfolio company operating on a standalone basis, is well positioned to finance the implementation of the NCBP. Savion, LLC is well-capitalized and has sufficient access to capital on short notice. In addition, Savion, LLC has a track record of successfully raising capital and financing the development of solar energy facilities. Savion, LLC has successfully developed solar and energy storage projects in eight U.S. states totaling more than 2.3 gigawatts of capacity (Savion, LLC, 2024). This supports a finding that the implementation of the NCBP will be economically feasible and financially viable. Therefore, ORES should find that the Applicant has the financial wherewithal to carry out the mitigation obligations under Article VIII relating to endangered and threatened avian species, and as presented in this NCBP.

## 6.0 REFERENCES

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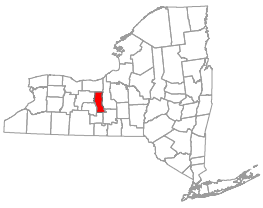
# FIGURES

# Figure 1. Regional Facility Location


## North Seneca Solar Project

Towns of Junius and Waterloo,
Seneca County, New York

***Net Conservation Benefit Plan***

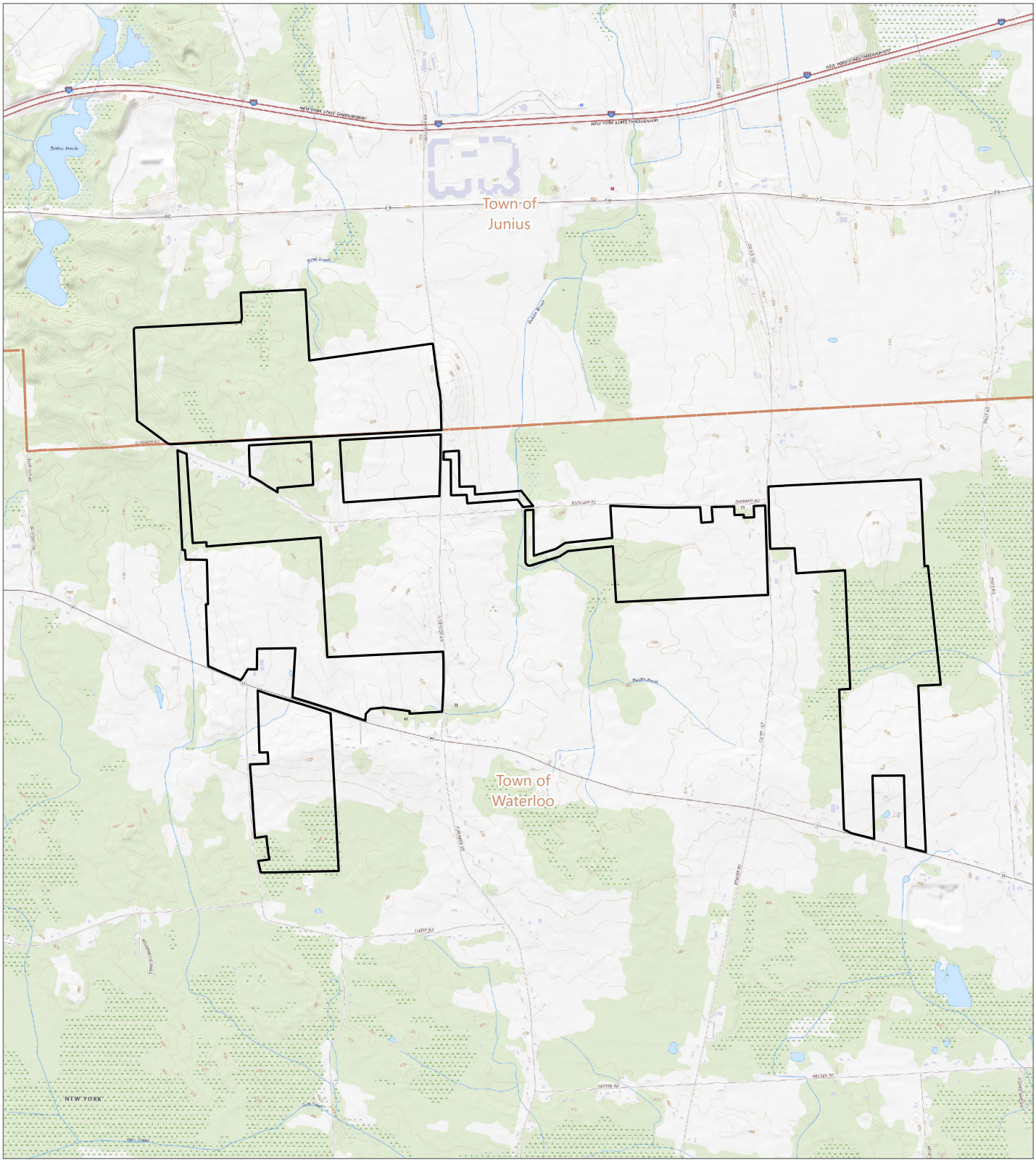


0 2.5 5 10
Miles

Prepared October 17, 2024
Basemap: Esri "World Street Map" map service

EDR

# Figure 2. Facility Site




## North Seneca Solar Project

Towns of Junius and Waterloo,
Seneca County, New York

***Net Conservation Benefit Plan***

Facility Site

0 1,000 2,000 4,000
Feet

Prepared October 17, 2024
Basemap: Esri "USGS Topo" map service

EDR

**This figure has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.**

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