
NORTH SENECA

SOLAR PROJECT

APPENDIX 12-B

Agency Correspondence

ORES Permit Application No. 23-00036

REDACTED

North Seneca Solar Project
Towns of Junius and Waterloo, Seneca County
Pre-application Wildlife Site Characterization Consultation
May 18, 2022

Pursuant to § 900-1.3(g), North Seneca Solar Project, LLC (North Seneca or Applicant) provided a Wildlife Site Characterization Report dated April 2022. As discussed in the initial meeting occurring on 5/17/2022, the Office of Renewable Energy Siting (ORES or Office) and New York State Department of Environmental Conservation (NYSDEC) reviewed this report. ORES, in consultation with NYSDEC, shares its initial findings based on the information provided by North Seneca as stated herein:

Initial Findings of Occupied Habitat

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Grassland Birds

There is no currently mapped occupied habitat for listed grassland bird species within the proposed facility site.



It is recommended the Applicant conduct breeding bird surveys in 2022 following the *New York State Department of Environmental Conservation Survey Protocol for State-listed Breeding Grassland Bird Species* (March 2022) The Applicant developed and submitted a work plan on April 15, 2022. ORES provided comments on the work plan on May 5, 2022.

It is also recommended that the Applicant conduct winter raptor surveys in 2022-2023. A work plan should be developed following *New York State Department of Environmental Conservation Survey Protocol for State-listed Wintering Grassland Raptor Species* (August 2021) and submitted at least one (1) month prior to the commencement of field work. Upon receipt and review of the full reports and associated shapefiles for all surveys conducted on site, a determination will be made regarding the extent of impacts to listed grassland bird species.

Construction and operation of the project within occupied habitat will result in a take of listed species. To avoid impacts to listed grassland bird species, no project elements should be placed in

fields where nests, roosts, or essential foraging behavior are determined to be located or in fields greater than 25 acres in size located within one half (½) mile of these locations.

Other State-listed Species

[REDACTED]

The Applicant should contact the US Fish and Wildlife Service early in the planning process to discuss potential impacts of the project on this species and to obtain federal guidance on recommended avoidance, minimization, and mitigation measures.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Preliminary Estimate of Occupied Habitat

[REDACTED] Additional information from the results of on-site surveys, details on the location and placement of project components, and a description of the current habitats where project components will be placed are needed before a complete determination of occupied habitat can be made.

Please note that these initial findings are based on an initial review of the Wildlife Site Characterization Report provided by North Seneca. ORES will update these findings upon receipt and review of the above referenced reports and associated shapefiles.

Recommended Habitat Assessments and/or Field Surveys

Habitat assessments (field surveys) are recommended in the appropriate seasonal windows within one year. In general, all fields greater than 25 acres within the facility area boundary should be surveyed for breeding grassland birds and wintering raptors following an approved work plan. Habitat assessments for breeding grassland birds should include a description of the current landcover and the crop history for the most recent 5 years for any fields greater than 25 acres in size where components may be sited.

Breeding grassland bird surveys are recommended in 2022 following the *New York State Department of Environmental Conservation Survey Protocol for State-listed Breeding Grassland Bird Species* (March 2022). The Applicant developed and submitted a work plan on April 15, 2022. ORES provided comments on the work plan on May 5, 2022.

Winter raptor surveys are recommended in 2022-2023 following the *New York State Department of Environmental Conservation Survey Protocol for State-listed Wintering Grassland Raptor Species* (August 2021). It is recommended the Applicant develop and submit a work plan by October 15, 2022.

[REDACTED]

If North Seneca concurs with these recommendations and agrees to conduct the habitat assessments and field surveys described above, please develop appropriate pre-construction study work plans and submit for review by the Office and NYSDEC prior to the commencement of field work, in compliance with §900-1.3(g)(4). If the Applicant opts not to conduct the recommended surveys and believes that suitable habitat for a given species is not present at the site, please provide

a detailed description of the methodology used to determine that no suitable habitat exists in compliance with §900-1.3(g)(3).

Figure 1

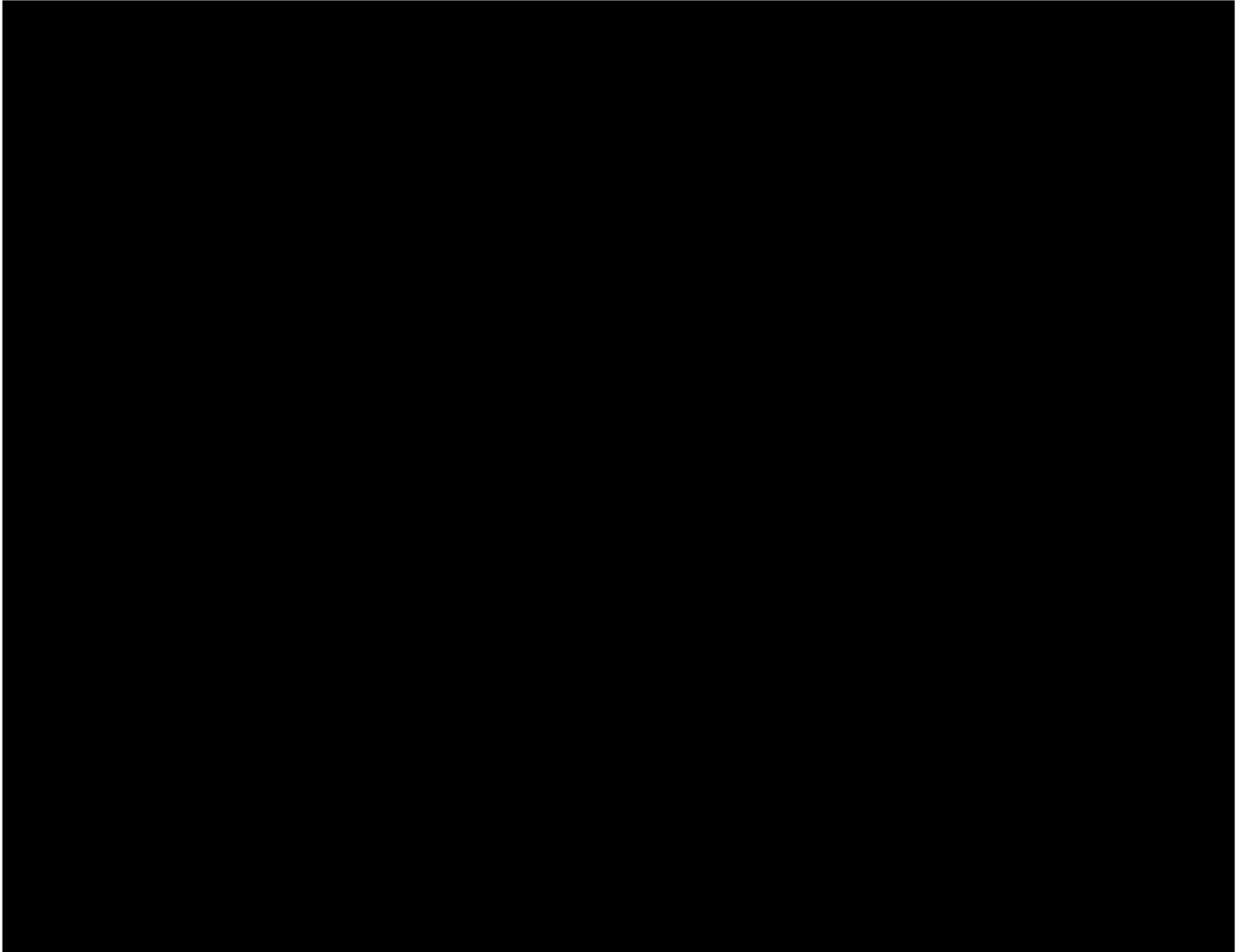
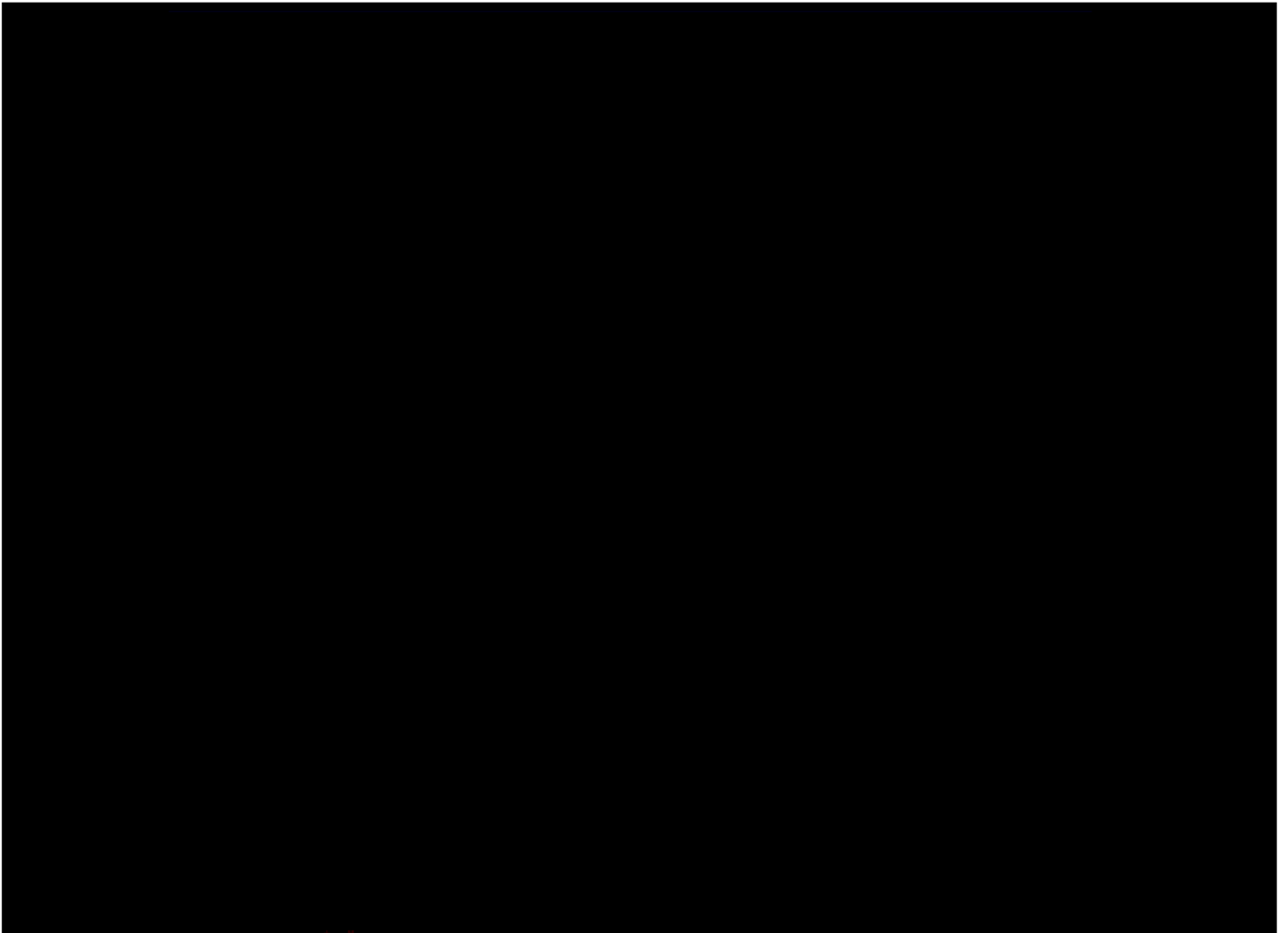


Figure 2



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

May 19, 2022

Courtney Scoles
EDR
217 Montgomery Street, Suite 1100
Syracuse, NY 13202

Re: North Seneca Solar Project (EDR Project No. 22059)
County: Seneca Town/City: Junius, Waterloo

Dear Courtney Scoles:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our database. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 8 Office, Division of Environmental Permits, at dep.r8@dec.ny.gov.

Sincerely,



Heidi Kraehling
Environmental Review Specialist
New York Natural Heritage Program



The following state-listed animals have been documented in the vicinity of the project site.

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed.

For information about any permit considerations for your project, please contact the Permits staff at the NYSDEC Region 8 Office at dep.r8@dec.ny.gov, (585) 226-5400.

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

9812

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

13892

This report only includes records from the NY Natural Heritage database.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage’s Conservation Guides at www.guides.nyhnp.org, and from NYSDEC at www.dec.ny.gov/animals/7494.html.



The following rare plants, rare animals, and significant natural communities have been documented at the project site, or in its vicinity.

We recommend that potential impacts of the proposed project on these species or communities be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Field surveys of the project site may be necessary to determine whether a species currently occurs at the site, particularly for sites that are currently undeveloped and may still contain suitable habitat. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

The following animals, while not listed by New York State as Endangered or Threatened, are rare in New York and are of conservation concern.

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>NY STATE LISTING</i>	<i>HERITAGE CONSERVATION STATUS</i>	
Reptiles				
Coal Skink	<i>Plestiodon anthracinus</i>	No Open Season	Imperiled in NYS	
Documented within 150 yards of the project site.				3188
Fish				
Iowa Darter	<i>Etheostoma exile</i>	Unlisted	Imperiled in NYS	
Documented within 1/4 mile west of the project site. 2005-05-10: The fish was caught in the north end of a 15 acre pond.				12392

The following natural communities are considered significant from a statewide perspective by the NY Natural Heritage Program. Each community is either an example of a community type that is rare in the state, or a high-quality example of a more common community type. By meeting specific, documented criteria, the NY Natural Heritage Program considers these community occurrences to have high ecological and conservation value.

<i>COMMON NAME</i>	<i>HERITAGE CONSERVATION STATUS</i>	
Wetland/Aquatic Communities		
Rich Shrub Fen	High Quality Occurrence of Rare Community Type	
Documented within 1/4 mile of the project site.		8597
Meromictic Lake	High Quality Occurrence of Rare Community Type	
Junius Ponds Lowery Pond: This community is a small to average size meromictic lake that is presumed to be in good condition within a fair quality landscape setting with <i>Phragmites australis</i> invading the wetland complex.		14091

Rich Graminoid Fen

High Quality Occurrence of Rare Community Type
and Globally Uncommon

Documented within 1/4 mile of the project site.

7074

Red Maple-Hardwood Swamp

High Quality Occurrence of Uncommon Community Type

Junius Ponds Lowery Pond: This is a small, but fairly diverse swamp, with several invasive woody species with low percent cover, well buffered by natural communities, and in a small to moderate size landscape block with nearby transportation corridors and agricultural fields. *Phragmites australis* has invaded the wetland complex and is a threat to this community occurrence.

14092

Marl Fen

High Quality Occurrence of Rare Community Type
and Globally Rare

Documented within 1/3 mile of the project site.

5630

Shallow Emergent Marsh

High Quality Occurrence of Uncommon Community Type

Junius Ponds Lowery Pond: This is a small, but fairly diverse marsh, with a few invasive species, well buffered by other wetlands, and in a small to moderate size landscape block with nearby transportation corridors and agricultural fields. *Phragmites australis* has invaded the wetland complex and is a threat to this community occurrence.

14093

Shrub Swamp

High Quality Occurrence of Uncommon Community Type

Junius Ponds Phillips Pond:

15911

[REDACTED]

[REDACTED]

[REDACTED]

470

[REDACTED]

7802

[REDACTED]

8067

[REDACTED]

414

[REDACTED]

2178

[REDACTED]

2409

[REDACTED]

[REDACTED]

[REDACTED]

15913

[REDACTED]

[REDACTED]

6455

This report only includes records from the NY Natural Heritage database. For most sites, comprehensive field surveys have not been conducted, and we cannot provide a definitive statement as to the presence or absence of all rare or state-listed species. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the rare animals and plants in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, from NatureServe Explorer at www.natureserve.org/explorer, and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

Information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org. For descriptions of all community types, go to www.dec.ny.gov/animals/29384.html for Ecological Communities of New York State.

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, D.P.C. (EDR)

Date: July 1, 2022

Reference: North Seneca Solar Project
Breeding Bird Survey (BBS) Work Plan Comment Responses

EDR Project No.: 22059

Background

- North Seneca Solar Project, LLC (the Applicant) is proposing to construct the North Seneca Solar Project, a solar energy generation facility of up to 105 megawatts (MW) within the Towns of Junius and Waterloo, Seneca County, New York (the Facility).
- The Applicant submitted a Breeding Bird Survey (BBS) Work Plan for the Facility to ORES and NYSDEC on April 15, 2022. ORES and NYSDEC provided comments on the BBS Work Plan to the Applicant on May 4, 2022.
- Revisions that have been made to the BBS study design and responses to agency comments are summarized below. Updated survey locations for this study are presented in the attached Figure 1.

Breeding Bird Survey Work Plan Comment Responses

- Agency Comment: It is recommended that survey points be added or moved to provide full visual and auditory coverage of all open habitats greater than 25 acres within the entire facility site, including in the following approximate locations:
 - An additional survey point should be added to the field containing Point Count Location 2.
 - Point Count Location 11 should be moved to the field containing Point Count Locations 9-12 in order to relocate this point from its primarily forested cover. Point Count Locations 9-12 may need to be shifted slightly to maintain a distance of 250 meters from each survey point.
 - Point Count Locations 18 and 17 should be shifted to south and north respectively to maintain a distance of at least 200 meters from each other.

Response: Based on agency feedback on the BBS Work Plan and changes in land access permissions, the Applicant and EDR have made several changes to point count survey locations. These changes to the study design are summarized below and the revised survey locations are presented in the attached Figure 1.

- *An additional point could not be added west of point count location 2 due to lack of land access permission. However, it should be noted that point count location 2 already provides visual and auditory coverage of the majority of the on-site open field habitat in this area. In addition, it should be noted that the open fields in this area have been typically used for row crop production (e.g., corn in 2018, 2019, and 2021; soybeans in 2020; refer to BBS Work Plan Appendix A), so suitability for use by state-listed threatened or endangered grassland bird species is likely to be minimal.*
 - *Point count location 11 was relocated approximately 100 meters to the east to provide improved coverage of open field areas. In addition, point count location 10 was shifted north and point count location 12 was moved east slightly to provide improved coverage of the surrounding open fields.*
 - *Point count location 17 was shifted further north and point count location 18 was shifted further south in order to improve coverage and the spacing between point count locations.*
 - *Two additional point count locations (now identified as point count locations 38 and 39) were added to the study to provide coverage of an additional parcel located east of point count location 37 that was added to the BBS Study Area after the BBS Work Plan was submitted. Numbering for the original point count locations 38, 39, and 40 was updated; these are now identified as point count locations 40, 41, and 42, respectively.*
- **Agency Comment:** As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

Response: It is noted that entering reportable data into the New York State Breeding Bird Atlas via eBird is an optional data management tool and is not required. Therefore, as an alternative option, EDR and the Applicant have chosen to not enter the survey data into eBird at this time, and will instead provide the requested data as part of the 2022 Breeding Bird Survey Report.

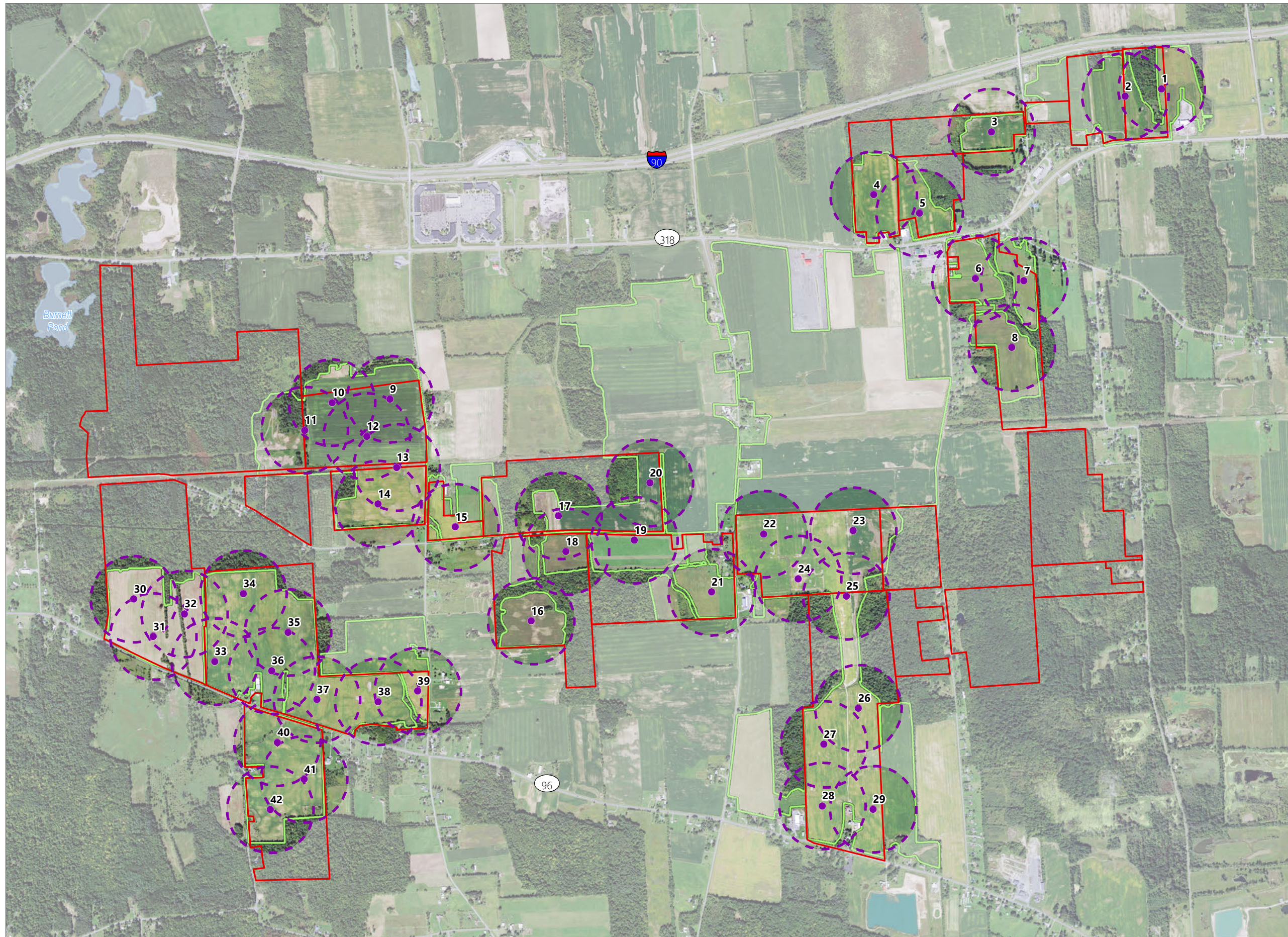
- **Agency Comment:** Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Response: A shapefile with the final ground-truthed viewshed assessment for each point count location will be provided with the 2022 Breeding Bird Survey Report.

Attachments: Figure 1. Open Fields and Survey Locations

Copies To: Jason Funk (North Seneca Solar Project, LLC)
Project File

Figure 1. Open Fields and Survey Locations

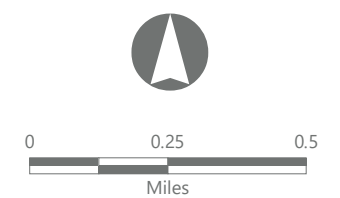


North Seneca Solar Project

Towns of Junius and Waterloo
Seneca County, New York

Breeding Bird Survey Work Plan Comment Response

- Point Count Location
- Area within 250 meters of Point Count Location
- Open Field
- BBS Study Area



Prepared June 23, 2022
Basemap: USDA NAIP "2019 New York 60cm" orthoimagery map service



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: August 12, 2022

Reference: North Seneca Solar Project
Breeding Bird Surveys
State-Listed Threatened or Endangered (T&E) Species Summary

EDR Project No.: 22059

Facility Overview

- North Seneca Solar Project, LLC (the Applicant) is proposing to construct the North Seneca Solar Project, an up to 105-megawatt solar energy generation facility and associated infrastructure within the Towns of Junius and Waterloo in Seneca County, New York (the Facility).
- The parcels under consideration for the Facility (the Facility Site) currently total approximately 1,900 acres and 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 areas of deciduous forest, woody wetlands, and disturbed/developed land (primarily rural single-family houses, farms, and associated yards) are present.
- The current Facility Site directly corresponds with the Breeding Bird Survey (BBS) Study Area that was surveyed in 2022 (see below).

Breeding Bird Survey Summary

- The 2022 surveys were designed and conducted following the 2022 NYSDEC *Survey Protocol for State-listed Breeding Grassland Bird Species*. The scope of these surveys was defined in a Breeding Bird Survey Work Plan that was submitted to ORES on April 15, 2022. ORES and NYSDEC reviewed the Breeding Bird Survey Work Plan and provided comments on May 4, 2022. Revisions were made to the study design based on agency feedback.
- The purpose of the breeding bird survey was to identify and document avian species, (including state-listed species) that utilize habitats within the lands being evaluated to host the Facility during the breeding season.

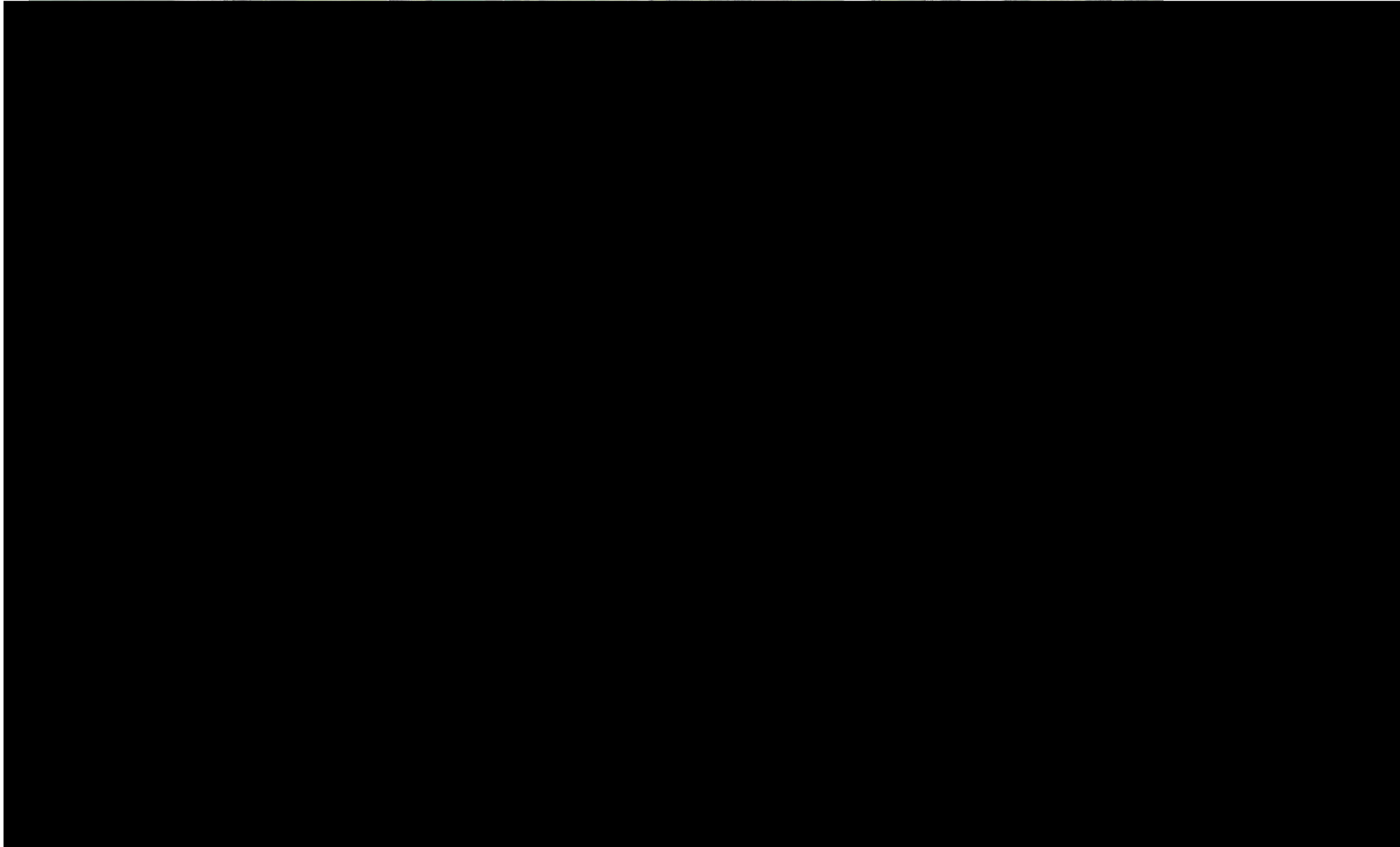
- Surveys began on May 19, 2022, and the final survey was completed on July 22, 2022. EDR biologists conducted morning surveys approximately weekly throughout the season, and point count locations were visited up to nine times each.
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] > **END CONFIDENTIAL INFORMATION**
- State-listed T&E species documented during the 2022 breeding bird survey season are depicted in the attached **Figure 1**.
- The observations noted herein are not intended, in and of themselves, to be a basis for conclusions regarding potential occupied habitat, as the mere observation of a species is not sufficient, based on the NYSDEC’s guidance, to identify occupied habitat. Rather, the species must exhibit one or more essential behaviors.¹ Additional details and evaluation of behaviors and potential habitat will be presented in a full Breeding Bird Survey Report.

Attachments: Figure 1. State-Listed T&E Species Observations

Copies To: Jason Funk (North Seneca Solar Project, LLC)
 Walter Meisner (North Seneca Solar Project, LLC)

¹ 6 NYCRR Part 182.2(f) defines essential behavior as any of the behaviors exhibited by a species listed as endangered or threatened (in New York State) that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

Figure 1. State-Listed T&E Species Observations





Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering &
Environmental Services, D.P.C.(EDR)

Date: November 10, 2022

Reference: North Seneca Solar Project
Winter Raptor Survey (WRS) Work Plan Comment Responses

EDR Project No.: 22059

Background

- North Seneca Solar Project, LLC (the Applicant) is planning to develop the North Seneca Solar Project, a solar energy generation facility of up to 105 megawatts (MW) within the Towns of Waterloo and Junius, Seneca County, New York (the Facility).
- On behalf of the Applicant, EDR submitted a Winter Raptor Survey (WRS) Work Plan for the Facility to the Office of Renewable Energy Siting (ORES) the New York State Department of Environmental Conservation (NYSDEC) on October 6, 2022. ORES and NYSDEC staff responded with comments on this submittal on October 26, 2022.
- The WRS study design has been revised based on this feedback, and responses to agency comments are summarized below. Updated survey locations and estimated areas of ground visibility for evening survey stations are presented in the attached **Figures 1 and 2**. Evening survey station identification numbers have been updated; therefore, the original and updated identification numbers are noted in the sections below.

Winter Raptor Survey Work Plan Comment Responses

- Agency Comment: An additional survey point should be added west of Evening Survey Station 1 [now 2] on State Route 96 to provide better coverage of the western fields north and south of State Route 96.

*Response: As recommended, EDR added a survey location (now identified as Evening Survey Station 1) in the southwestern portion of the WRS Study Area north of State Route 96 (see attached **Figure 1**). This location will provide additional coverage of open fields north and south of State Route 96, as well as on-site open fields to the east (see attached **Figure 2**).*

- Agency Comment: As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

Response: It is noted that entering reportable data into the New York State Breeding Bird Atlas via eBird is an optional data management tool and is not required. Therefore, as an alternative option, EDR and the Applicant have chosen to not enter the survey data into eBird at this time, and will instead provide the requested data with the Winter Raptor Survey Report. All survey data collected by EDR on behalf of the Applicant are confidential. ORES and NYSDEC are not allowed to publicly disclose the data or share the data with anyone or any third party database.

- Agency Comment: Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Response: EDR conducted additional field review to update estimated areas of ground visibility for evening survey locations to reflect conditions in early November 2022. Estimated areas of ground visibility will continue to be evaluated during field surveys, and GIS shapefiles of the final estimated areas of ground visibility will be provided with the Winter Raptor Survey Report.

Additional Updates

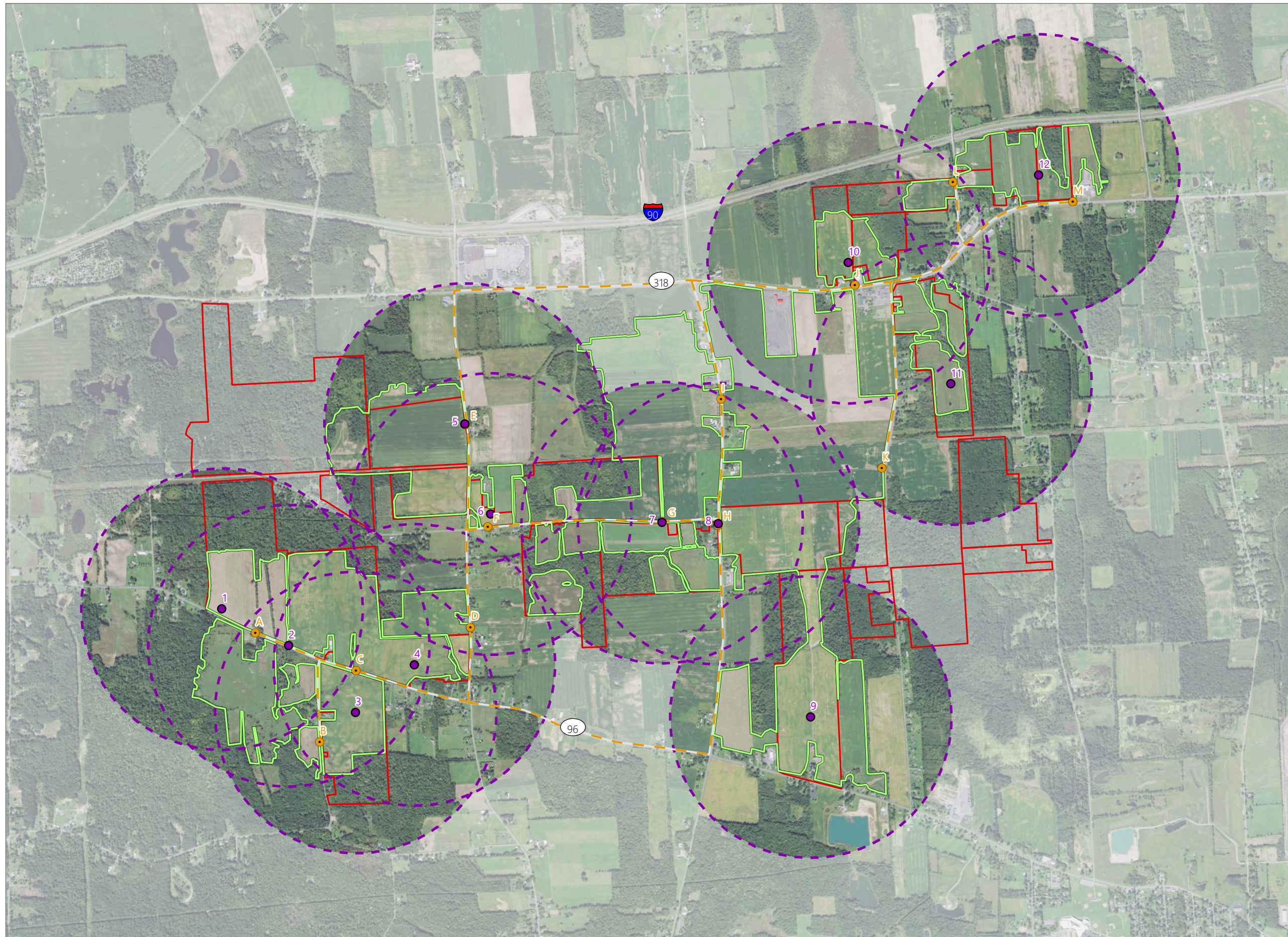
- EDR will continue to evaluate coverage during the initial field surveys. Depending on ground visibility following corn harvest and under leaf-off conditions, Evening Survey Station 2 (originally identified as Evening Survey Station 1) may be shifted further northeast to improve coverage of the associated open field and optimize spacing with respect to other survey locations in the southwestern portion of the WRS Study Area.
- Evening Survey Station 3 (originally identified as Evening Survey Station 2) has been relocated further northeast now that corn has been harvested, which will improve coverage and ground visibility.
- Evening Survey Station 8 (originally identified as Evening Survey Station 7) will remain at the original location until the corn field to the east has been harvested. Following corn harvest, this evening survey station may then be shifted slightly east across the road to improve ground visibility and surveyor safety.

ORES and NYSDEC
November 10, 2022

Attachments: Figures

Copies To: Jason Funk (North Seneca Solar Project, LLC)
Camille Kaynor (North Seneca Solar Project, LLC)
Project File

Figure 1. Open Fields and Survey Locations



North Seneca Solar Project

Towns of Waterloo and Junius
Seneca County, New York

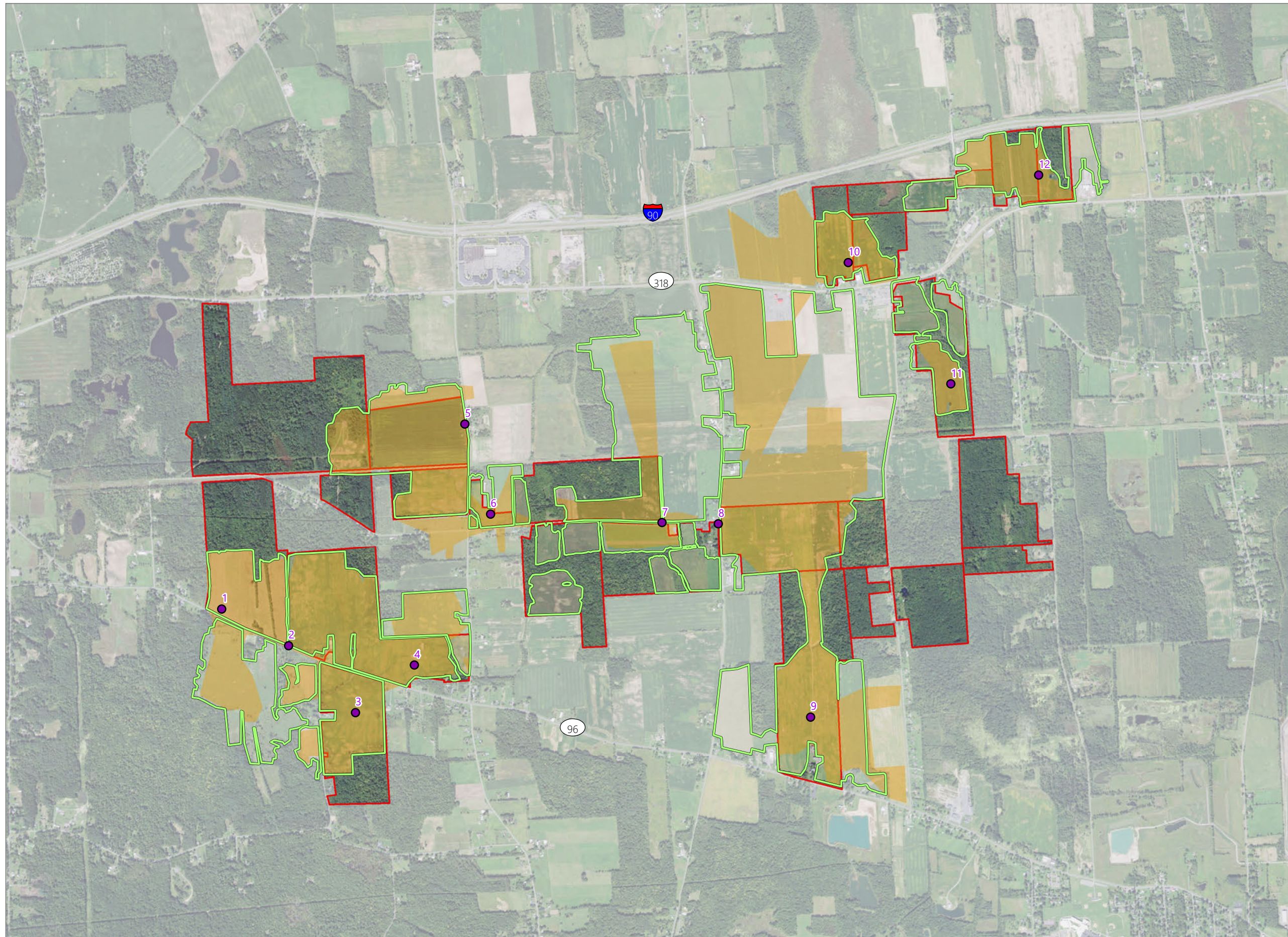
Winter Raptor Survey Work Plan Comment Response

- Evening Survey Station
- Daytime Survey Stop
- Daytime Driving Route
- - - Area within 1,000 meters of Evening Survey Station
- Open Field
- WRS Study Area



Prepared November 3, 2022
Basemap: USDA NAIP "2019 New York 60cm" orthoimagery map service

Figure 2. Estimated Areas of Ground Visibility for Evening Survey Stations

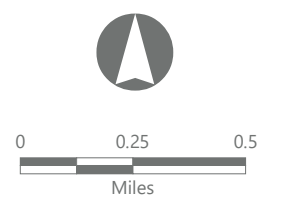


North Seneca Solar Project

Towns of Waterloo and Junius
Seneca County, New York

Winter Raptor Survey Work Plan Comment Response

- Evening Survey Station
- Open Field
- Estimated Area of Ground Visibility
- WRS Study Area



Prepared November 4, 2022
Basemap: USDA NAIP "2019 New York 60cm" orthoimagery map service



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering &
Environmental Services, D.P.C. (EDR)

Date: April 26, 2023

Reference: North Seneca Solar Project
Winter Raptor Surveys
State-Listed Threatened and Endangered (T&E) Species Summary

EDR Project No: 22059

Facility Overview

- North Seneca Solar Project, LLC (the Applicant) is proposing to construct a solar-powered electric generating facility of up to 105 megawatts (MW) within the Towns of Junius and Waterloo, Seneca County, New York (the Facility).
- The parcels currently under consideration for the Facility (the Facility Site) total approximately 1,800 acres and 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 land (primarily rural single-family houses, farms, and associated yards) are present.

Winter Raptor Survey Summary

- Surveys were designed and conducted following the New York State Department of Environmental Conservation (NYSDEC) August 2021 *Survey Protocol for State-listed Wintering Grassland Raptor Species* (NYSDEC Survey Protocol). Surveys began on November 14, 2022, and the final survey was completed on April 7, 2023.

- **BEGIN CONFIDENTIAL INFORMATION <**

>END CONFIDENTIAL INFORMATION

- The surveys were intended to document the presence and use patterns of raptor species within a defined Winter Raptor Survey (WRS) Study Area during the winter season and to identify specific habitat areas (including roost sites and foraging areas) used by state-listed raptor species.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
CONFIDENTIAL INFORMATION

- The scope of these surveys was defined in a Winter Raptor Survey Work Plan that was submitted to the Office of Renewable Energy Siting (ORES) on October 6, 2022. The work plan was subsequently revised based on feedback from ORES and NYSDEC, as summarized in a comment response memorandum dated November 10, 2022.

- EDR biologists conducted multiple surveys per week for a total of 247 evening stationary surveys at 13 different locations (representing more than 380 survey-hours). Daytime driving surveys were also completed by EDR biologists at 13 different locations over a period of 21 weeks, representing a total of 20 surveys from daytime survey stops.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED] >
CONFIDENTIAL INFORMATION

- State-listed T&E species observations documented during the winter raptor surveys are depicted by month in the attached Figure 1.

- The observations noted herein are not intended, in and of themselves, to be a basis for conclusions regarding potential occupied habitat, as the mere observation of a species is not sufficient, based on the NYSDEC's guidance, to identify occupied habitat. Rather, the species must exhibit one or more essential behaviors.¹ Additional details and evaluation of behaviors and potential habitat will be presented in a full Winter Raptor Survey Report.

Next Steps

- Provide a full Winter Raptor Survey Report and associated geographic information system (GIS) shapefiles to ORES and NYSDEC in May 2023.
- Provide an estimated occupied habitat memorandum and associated GIS shapefiles to ORES and NYSDEC.
- Hold a meeting to discuss the results of the field surveys completed for the Facility, estimated state-listed T&E species occupied habitat that may be present, potential impacts to estimated occupied habitat, and the requirements for a Net Conservation Benefit Plan (NCBP), if applicable.
- Obtain a determination regarding the presence of state-listed T&E species occupied habitat and the potential for Facility-related impacts (if any).

Attachments: Figure 1. State-Listed T&E Species Observations

Copies To: Jason Funk (North Seneca Solar Project, LLC)
Camille Kaynor (North Seneca Solar Project, LLC)
James Muscato (Young/Sommer LLC)

¹ 6 NYCRR Part 182.2(f) defines essential behavior as any of the behaviors exhibited by a species listed as endangered or threatened (in New York State) that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - November

CONFIDENTIAL Sheet 1 of 6

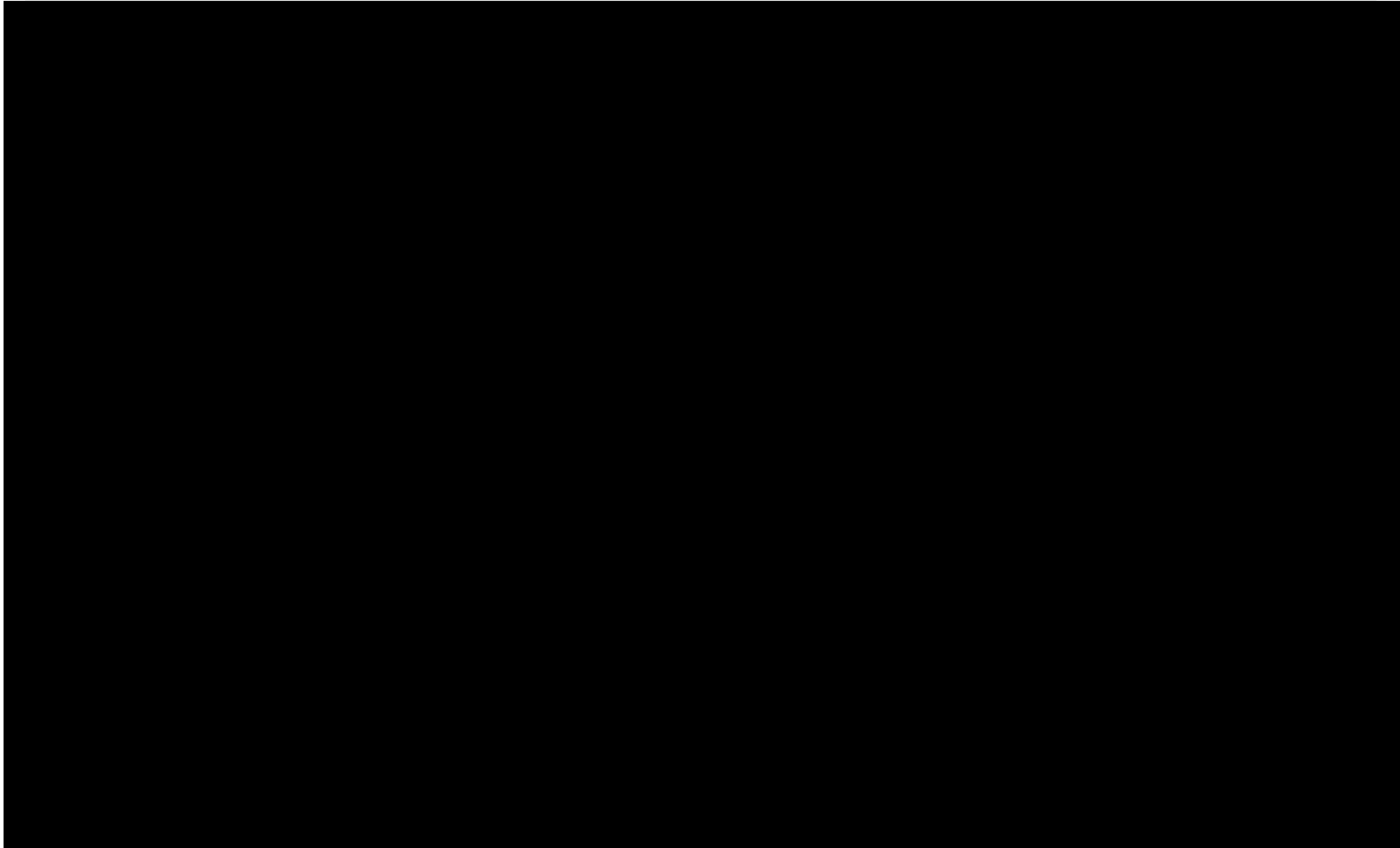


Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - December

CONFIDENTIAL Sheet 2 of 6

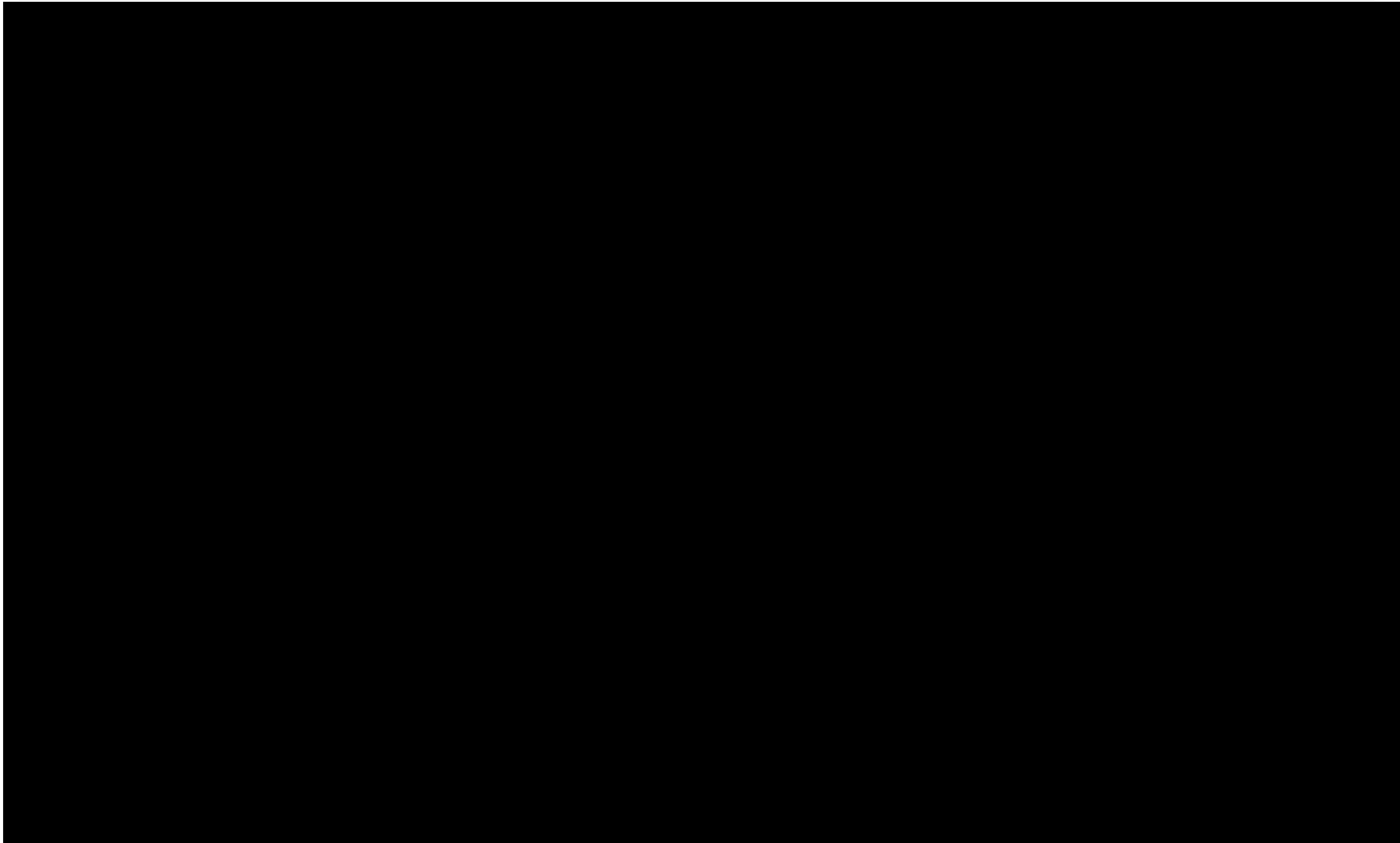


Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - January



Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - February

CONFIDENTIAL Sheet 4 of 6

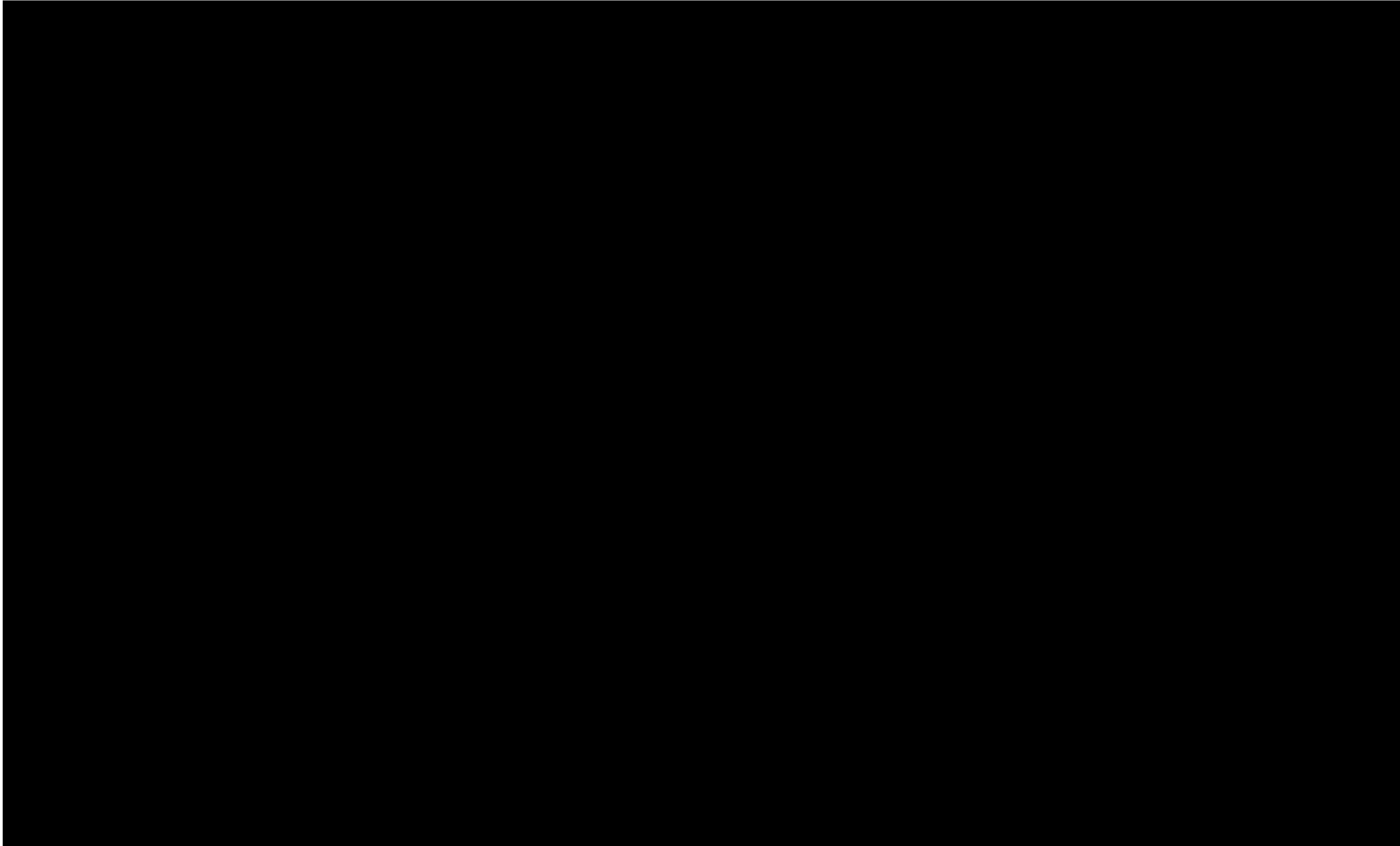


Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - March

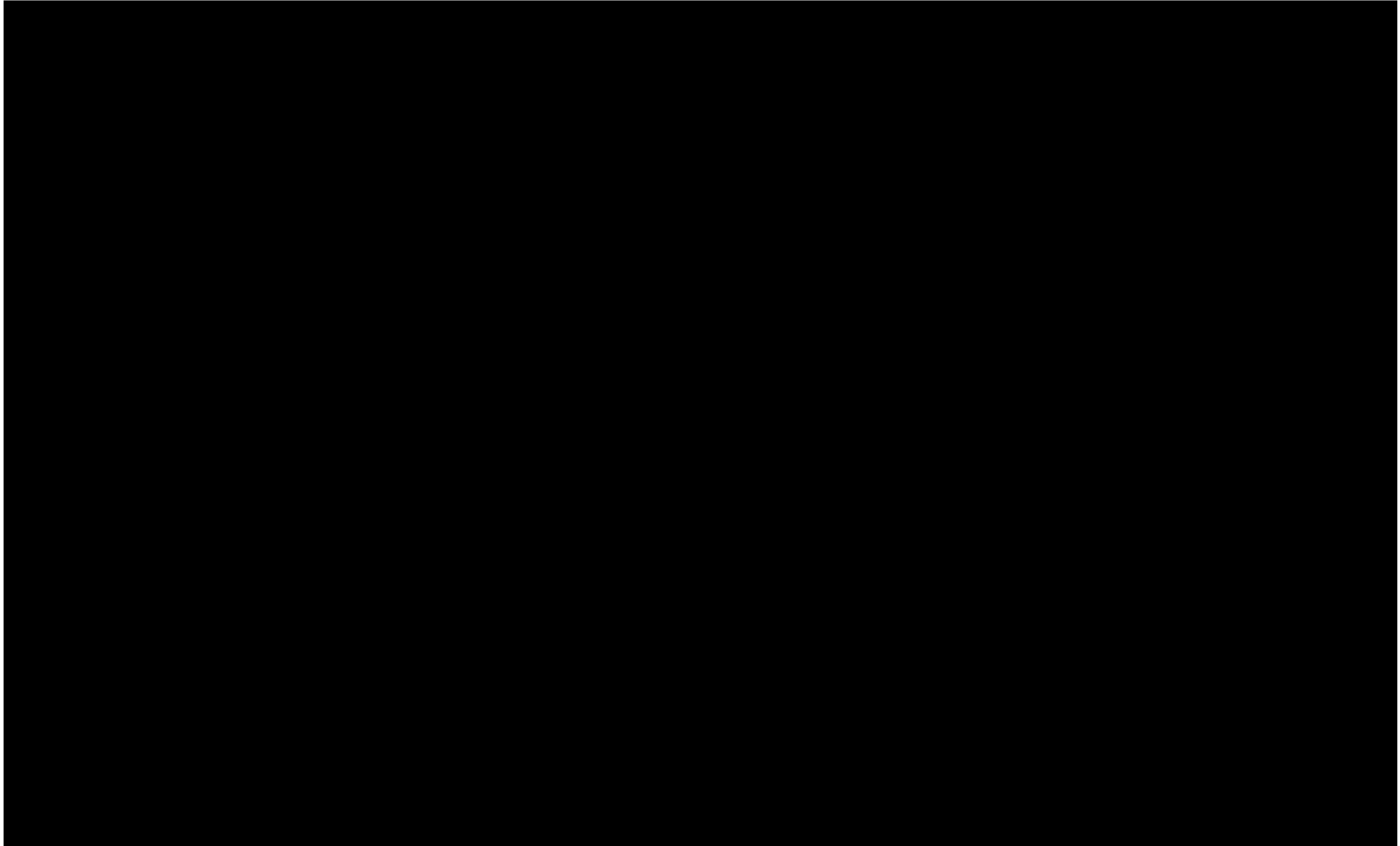
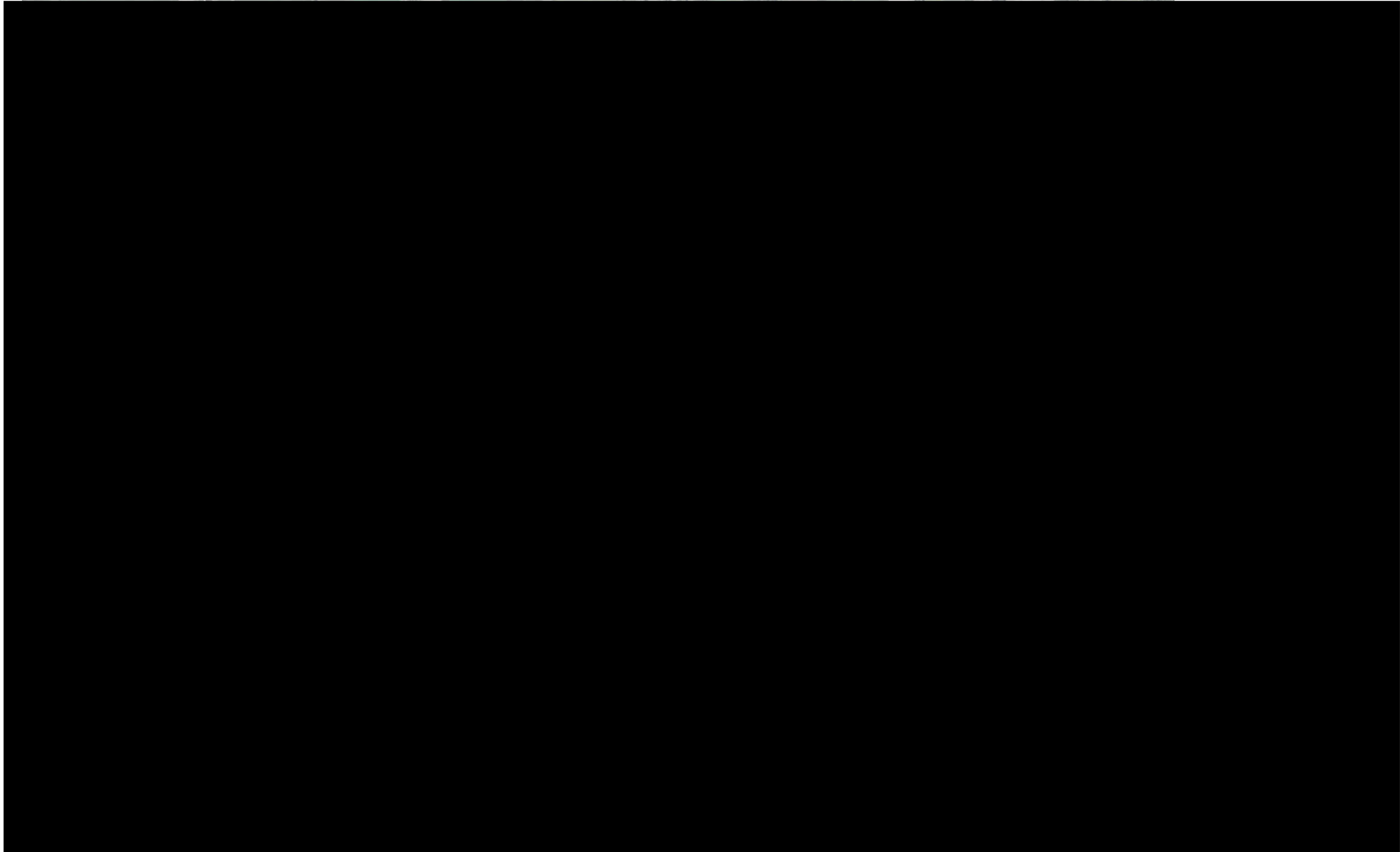


Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations - April

CONFIDENTIAL Sheet 6 of 6



Laurie Reynolds

From: Doran, Sandra <Sandra_Doran@fws.gov>
Sent: Friday, May 12, 2023 11:24 AM
To: Laurie Reynolds
Cc: William Whipps; Jess DeToy; Jason Funk; Camille Kaynor; Rayman, Noelle; Drew, Ian
Subject: Re: [EXTERNAL] [REDACTED]

[EXTERNAL SENDER]

Hi Laurie,

Thank you for coordinating this project with the New York Field Office. Based on the datasheets and the photos submitted, [REDACTED] and we do not recommend additional surveys [REDACTED]

Sandie

Sandra Doran
U.S. Fish and Wildlife Service
New York Ecological Services Field Office
Endangered Species/Conservation Planning Assistance Branch
3817 Luker Road
Cortland, NY 13045
Office Phone: 607-753-9334
Email: sandra_doran@fws.gov

From: Laurie Reynolds <lreynolds@edrdpc.com>
Sent: Tuesday, May 9, 2023 4:45 PM
To: Doran, Sandra <Sandra_Doran@fws.gov>; Rayman, Noelle <noelle_rayman@fws.gov>
Cc: William Whipps <wwhipps@edrdpc.com>; Jess DeToy <jdetoy@edrdpc.com>; Jason Funk <jfunk@savionenergy.com>; Camille Kaynor <ckaynor@savionenergy.com>
Subject: [EXTERNAL] [REDACTED]

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Sandy and Noelle. Thank you again for meeting with us yesterday. [REDACTED]
[REDACTED]. Please note that we supplemented the recent photographs with a few older photographs taken at the same wetlands during the wetland delineations. As discussed, will follow up shortly with the Phase 1 Survey Report once finalized.

Please do not hesitate to reach out with any questions or comments. Thank you!

Laurie Reynolds

EDR Senior Environmental Analyst

217 Montgomery Street, Suite 1100, Syracuse, New York 13202

O: 315.471.0688 x675 M: 631.338.7639 www.edrdpc.com

EDR a **better** environment



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: July 21, 2023

Reference: North Seneca Solar Project
Estimated Occupied Habitat Analysis

EDR Project No.: 22059

Introduction

- North Seneca Solar Project, LLC (the Applicant) is planning to develop the North Seneca Solar Project, a proposed solar energy generation facility (the Facility) of up to 105 megawatts (MW) located in the Towns of Junius and Waterloo, Seneca County, New York.
- The Facility Site is an approximately 1,300-acre area, and includes all parcels, or portions of parcels, which are currently under consideration by the Applicant for the location of Facility components.
- The Facility Site is 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 land (primarily rural single-family houses, farms, and associated yards) are present.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] > **END CONFIDENTIAL INFORMATION** ORES and New York State Department of Environmental Conservation (NYSDEC) staff recommended conducting on-site avian field surveys, with a focus on open fields greater than 25 acres in size.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
>**END CONFIDENTIAL INFORMATION** Accordingly, the Applicant and EDR met with regional USFWS staff to discuss and obtain federal guidance on conducting surveys, as well as recommended avoidance, minimization, and mitigation measures.
- On-site breeding bird surveys were conducted between May 19, 2022 and July 22, 2022. On-site winter raptor surveys began on November 14, 2022 and concluded on April 7, 2023. **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
>**END CONFIDENTIAL INFORMATION**
- This memorandum summarizes pre-construction wildlife surveys that have been completed for the Facility, along with EDR's estimate of occupied habitat based on the results of these surveys and data provided by ORES. An estimate of areas where Facility components may be located within estimated occupied habitat is also provided herein. This memorandum is being submitted in response to an email provided by ORES on June 20, 2023, and in anticipation of a meeting with ORES to discuss whether occupied habitat exists within the Facility Site and, if applicable, requirements for a Net Conservation Benefit Plan.

Summary of Pre-Construction Wildlife Surveys

2022 Breeding Bird Surveys

- Breeding bird surveys were conducted from May 19 to July 22, 2022.
- Point count surveys were conducted at 42 locations (Attachment 1, Figure 1). Morning surveys were conducted on 20 different days, and each point count survey location was visited up to nine times throughout the survey period.
- No state-listed threatened species were observed during the 2022 breeding bird surveys. **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
- [REDACTED] >**END CONFIDENTIAL INFORMATION**

INFORMATION

2022-2023 Winter Raptor Surveys

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

- A total of 13 evening survey stations and 13 daytime driving survey stops were established for this effort (Attachment 1, Figure 1).
- Over the course of the survey period, 247 evening stationary surveys were completed and a total of 20 sets of daytime driving surveys were conducted.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

>END CONFIDENTIAL INFORMATION

Estimated Occupied Habitat

- BEGIN CONFIDENTIAL INFORMATION < [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED] >END CONFIDENTIAL INFORMATION

Estimated Adverse Modification of Occupied Habitat

- BEGIN CONFIDENTIAL INFORMATION < [REDACTED]
- [REDACTED] >END CONFIDENTIAL INFORMATION

Conclusions and Next Steps

- The studies conducted for the Facility to date to document on-site use by state-listed wildlife species have been effective to characterize potential impacts, and additional study work is not recommended.
- It is anticipated that the pre-construction wildlife survey reports and this memorandum provide the information needed for ORES to hold a meeting with the Applicant, issue a determination of occupied habitat and incidental take, and provide guidance regarding a proposed net conservation benefit plan to be included with the Application.

List of Threatened or Endangered Species Submissions

- The following documents were previously submitted to ORES to meet the requirements of §900-1.3(g):
 - Wildlife Site Characterization Report dated April 2022 (submitted April 15, 2022).
 - Breeding Bird Survey Work Plan dated April 2022 (submitted April 15, 2022).
 - Breeding Bird Survey State-Listed Threatened or Endangered Species Summary dated August 12, 2022 (submitted August 23, 2022).
 - Breeding Bird Survey Report dated October 2022 (submitted October 10, 2022).
 - Winter Raptor Survey Work Plan dated October 2022 (submitted October 6, 2022).

ORES and NYSDEC

July 21, 2023

- Winter Raptor Survey State-Listed Threatened or Endangered (T&E) Species Summary dated April 26, 2022 (submitted April 26, 2022).
- Winter Raptor Survey Report dated June 2023 (submitted June 7, 2023).
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]
- [REDACTED]
- [REDACTED] **>END CONFIDENTIAL INFORMATION**

Copies To: Jason Funk, North Seneca Solar Project, LLC
Camille Kaynor, North Seneca Solar Project, LLC
Ayah Badran, Young/Sommer LLC
James Muscato, Young/Sommer LLC

Attachments: Attachment 1: Figures
Attachment 2: Draft Applicant Occupied Habitat Field by Field Analysis
Submission Table

Attachment 1

Figures

This figure has been redacted from this publicly available document because it contains protected/confidential information regarding the proposed facility location and/or the detailed locations of NYS threatened or endangered species.

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Attachment 2

Draft Applicant Occupied Habitat Field by Field Analysis Submission Table

This attachment has been redacted from this publicly available document because it contains protected/confidential information regarding the proposed facility location and/or the detailed locations of NYS threatened or endangered species.

This attachment has been redacted from this publicly available document because it contains protected/confidential information regarding the proposed facility location and/or the detailed locations of NYS threatened or endangered species.



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
 Email Address: fw5es_nyfo@fws.gov

In Reply Refer To:
 Project Code: 2023-0073854
 Project Name: North Seneca Solar Project

December 05, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location 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 (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

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 Act, 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 IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

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 Act. **Please include the Consultation Code 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

Project Code: 2023-0073854

Project Name: North Seneca Solar Project

Project Type: Power Gen - Solar

Project Description: The Applicant is proposing to construct a solar energy generation facility of up to 90 megawatts (MW) within the Towns of Junius and Waterloo, Seneca County, New York. The proposed Facility will consist of photovoltaic (PV) panel arrays, inverters, a collection substation, a point of interconnection (POI) substation, temporary construction laydown areas, access roads, fencing, and electrical collection lines.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.9457889,-76.93395332635632,14z>



Counties: Seneca County, New York

This appendix 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.

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Laurie Reynolds
Address: 217 Montgomery Street, Suite 1000
City: Syracuse
State: NY
Zip: 13202
Email: lreynolds@edrdpc.com
Phone: 6313387639



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
Email Address: fw5es_nyfo@fws.gov

In Reply Refer To:
Project code: 2023-0073854
Project Name: North Seneca Solar Project

December 05, 2023

Federal Action Agency (if applicable):

Subject: Record of project representative’s no effect determination for 'North Seneca Solar Project'

Dear Laurie Reynolds:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on December 05, 2023, for 'North Seneca Solar Project' (here forward, Project). This project has been assigned Project Code 2023-0073854 and all future correspondence should clearly reference this number. **Please carefully review this letter.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species’ determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no consultation with the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13].

- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]

Next Steps

[REDACTED] However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place to ensure compliance with the Act.

If you have any questions regarding this letter or need further assistance, please contact the New York Ecological Services Field Office and reference Project Code 2023-0073854 associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

North Seneca Solar Project

2. Description

The following description was provided for the project 'North Seneca Solar Project':

The Applicant is proposing to construct a solar energy generation facility of up to 90 megawatts (MW) within the Towns of Junius and Waterloo, Seneca County, New York. The proposed Facility will consist of photovoltaic (PV) panel arrays, inverters, a collection substation, a point of interconnection (POI) substation, temporary construction laydown areas, access roads, fencing, and electrical collection lines.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.9457889,-76.93395332635632,14z>



DETERMINATION KEY RESULT

[REDACTED] Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROJECT QUESTIONNAIRE

IPAC USER CONTACT INFORMATION

Agency: Private Entity

Name: Laurie Reynolds

Address: 217 Montgomery Street, Suite 1000

City: Syracuse

State: NY

Zip: 13202

Email: lreynolds@edrdpc.com

Phone: 6313387639