



Office of  
Renewable  
Energy Siting

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April 19, 2022

Michael Belikoff  
Brookside Solar, LLC  
292 Madison Ave, 15<sup>th</sup> Floor  
New York, NY 10017  
[brooksidesolar@aes.com](mailto:brooksidesolar@aes.com)

RE: Matter No. 21-00917 - NOTICE OF INCOMPLETE APPLICATION  
Executive Law §94-c Permit Application of Brookside Solar,  
LLC, for the proposed Brookside Solar Facility, located in  
the Towns of Burke and Chateaugay, Franklin County (100 MW  
Solar)

Dear Michael Belikoff:

Based upon review of the above Permit Application submitted by Brookside Solar, LLC (Applicant) on February 18, 2022, the Office of Renewable Energy Siting (the Office or ORES) has determined that the Application, as submitted, is incomplete. A list of incompleteness and a description of the specific deficiencies are identified in **Attachment A** to this letter, pursuant to 19 NYCRR §900-4.1(d).

The Applicant should review the attached information and provide a supplemental response to the Office. The supplement should include both a clean and redline version of all updated exhibits, and a full set of plans submitted electronically with revisions clouded. The Application shall remain incomplete until all requested information is received by the Office, and a partial submission of the requested material shall not change the incomplete status in compliance with 19 NYCRR §900-4.1(e). Failure to respond in writing to the Office's notice of incomplete application may result in the Application being deemed withdrawn without prejudice in compliance with 19 NYCRR §900-4.1(f).

Please note that the Applicant is required to serve a copy of its supplemental response on all entities entitled to receive a copy of the Application pursuant to 19 NYCRR §900-1.6. The Office is committed to responding as expeditiously as possible to your complete supplemental response.

cc: Service List

**ATTACHMENT A****Areas of Incompleteness and Description of Specific Deficiencies  
ORES Matter No. 21-00917 Brookside Solar Facility**

Pursuant to 19 NYCRR §900-4.1(d), this notice includes a listing of all identified areas of incompleteness and a description of specific deficiencies requiring a written response from the Applicant.

Without limitation, the additional analyses and information requested herein are necessary to make findings and determinations that the proposed Solar Facility, together with applicable Uniform Standards and Conditions (USCs), site specific conditions, and pre-construction and post-construction compliance filings, would: a) comply with Executive Law §94-c and applicable provisions of the Office's regulations at 19 NYCRR Part 900; b) comply with substantive provisions of applicable State laws and regulations; c) comply with substantive provisions of applicable local laws and ordinances; d) avoid, minimize, or mitigate, to the maximum extent practicable, potential significant adverse environmental impacts of the Facility; e) achieve a net conservation benefit with respect to any impacted threatened or endangered species; and f) contribute to New York's Climate Leadership and Community Protection Act (CLCPA) targets by providing the estimated additional megawatts (MW) of renewable energy set forth in the Application, and provide the environmental benefits of offsetting the estimated number of tons of CO<sub>2</sub> and other emissions per year set forth in the Application.

**Exhibit 3 - Location of Facilities and Surrounding Land Use**

1. 19 NYCRR §900-2.4(e) requires "[a] map of any existing overhead and underground major facilities for electric, gas, or telecommunications transmission within the study area and a summary of any consultations with owners of major facilities that may be impacted by the facility (crossing existing utilities or otherwise)." For the following, please supplement the Exhibit to include a summary of any consultations with owners of the facilities, proposed component crossings (if any), a description of how potential

cumulative impacts will be avoided, and revise Figure 3-3 to include any updates to the locations of proposed projects in relation to the Facility Site:

- a. Two Jericho Rise Wind Farm turbines within or adjacent to the Facility Site and four turbines located on parcels adjacent to the Facility Site;
- b. Portions of the proposed North Country Wind facility within or adjacent to the Facility Site;
- c. Noble Chateaugay Windpark;
- d. NexAmp 5 MW solar facility south of US Route 11 off of Ketchum Road;
- e. Glengarry Solar Project south of US Route 11 on Glengarry Farms property in Burke; and
- f. North Country Energy Storage Facility.

Additionally, please describe efforts to identify existing gas and/or water lines within the Facility Site and include a description of how impacts to such facilities will be avoided.

2. 19 NYCRR §900-2.4(f) requires "[a] map of all properties where a facility or ancillary feature would be located... and any publicly known proposed land use plans for any of these properties." Figure 3-4 depicts several landowner-imposed development restriction areas. Please provide a description of the landowner-imposed development restrictions for each parcel or provide cross-references to other exhibits where the requested information can be found.
3. 19 NYCRR §900-2.4(1) requires "[a] qualitative assessment of the compatibility of the facility, including any off-site staging and storage areas, with existing, proposed and allowed land uses... located within a one (1)-mile radius of the facility site... [demonstrating] that conflicts from facility-generated noise, traffic and visual impacts with current and planned uses have been minimized to the extent practicable." Please describe specific avoidance and minimization measures and state that construction and operation of the proposed Facility will not prohibit community use and enjoyment of the following resources:

- a. NYS-designated fishing rights easements along Chateaugay River;
- b. High Falls Park & Campground;
- c. NYS Snowmobile Trail C8C; and
- d. Military Trail NYS Scenic Byway.

**Exhibit 4 - Real Property**

1. 19 NYCRR §900-2.5(a) requires "[a] map of the facility site showing property boundaries with tax map sheet, block and lot numbers; the owner of record of all parcels included in the facility site and for all adjacent properties; easements, grants, deed restrictions, and related encumbrances on the parcels comprising the facility site..." Appendix 4-1 notes the existence of easements, grants, deed restrictions, related encumbrances, etc. that are not shown on the survey. Please provide a description of proposed crossing agreements, easements, and/or other property rights needed to locate the proposed Solar Facility in proximity to the existing Jericho Rise Wind facility (components within or adjacent to facility site), including other ROW crossings, as applicable. Please update Figure 4-1 to include utility corridors within and adjacent to the Facility Site and provide all related GIS data.

**Exhibit 5 - Design Drawings**

1. 19 NYCRR §900-2.6(d) requires that "[s]olar facilities shall meet the setback requirements set forth in Table 2. Compliance with such setbacks listed in Table 2 shall be shown in the general site plan drawings required by section 19 NYCRR §900-2.6(f)(1)(i) of this Part..." Please review Design Drawings PV-C.01.01, PV-C-01.03 and PV-C.01.17 to confirm that solar arrays comply with applicable local setback requirements.
2. 19 NYCRR §900-2.6(f)(1)(i)(b) requires the site plans to include "...temporary road improvements for component deliveries..." Design Drawings PV-C.01.02 and PV-C.01.04 include a note stating, "road improvements by others." Please describe the activities associated with "road improvement" or

provide cross-references to other exhibits where the requested information can be found.

3. 19 NYCRR §900-2.6(f)(1)(i)(c) requires the site plans to include "[e]lectric cable collection line corridors..." Please provide collection line routing details for connecting to the two arrays shown on drawing PV-C.01.02.
4. 19 NYCRR §900-2.6(f)(1)(i)(c) requires that the site plans include "...[t]he approximate locations of any proposed splice vaults." Please update Exhibit 5 to describe splicing methods and proposed splicing structure and provide approximate locations of splice vaults and junction boxes on updated site plans. If splice vaults will not be used, please revise the narrative accordingly.
5. For consistency across application exhibits, please revise the site plans to include the following General Notes:
  - a. "Pursuant to 19 NYCRR §900-3(a)(2), if previously unknown oil and/or natural gas wells are confirmed within the Facility Site during construction of the Facility, the contractor shall immediately cease construction activities in the immediate area surrounding the well and shall notify and consult with the Office and NYSDEC Division of Mineral Resources, Regional Minerals Manager, (Central Office, Albany, NY) to determine what, if any, mitigation measures must be implemented."
  - b. "Blasting is prohibited."
6. 19 NYCRR §900-2.6(f)(1)(j) requires the site plans to include "[a]ny berms, retaining walls, fences and other landscaping improvements..."
  - a. PV-C.14.01 indicates two seed mixes to be used. Please update Exhibit 5 and the Applicant's narrative concerning the proposed Planting Plan (Exhibit 8, section 8(d)(8)) to indicate the composition of the proposed seed mix and locations where each mix is proposed to be used.
  - b. PV-C.14.02 indicates planting templates where one side is taller and evergreen in nature and one side is more

reminiscent of successional fields and mixed agricultural hedgerows. Please revise the detail drawings in Exhibit 5 and the Applicant's proposed Planting Plan (Exhibit 8, section 8(d)(8)), to indicate the planting template details and orientation of planting templates in relation to the fence (i.e., evergreens adjacent to the fence).

7.19 NYCRR §900-2.6(f)(2)(i) requires "[t]ypical elevation drawings indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment..." Please revise Appendix 5-1 to include an elevation view of the proposed 28 ft. x 50 ft. control house at the POI substation (e.g., Sheet 422299-0006-001) and include the required information of 19 NYCRR §900-2.6(f)(2)(i).

8.19 NYCRR §900-2.6(f)(2)(iii) requires "[d]etails of typical underground infrastructure section, including single and multiple circuit layouts with dimensions of proposed depth, trench width, level of cover, separation requirements between circuits... and a description of the cable installation process..."

a. Separation requirements between circuits are not indicated in the drawings. Note 13 of Sheet PV-C.12.01 - Trench, Boring and Crossing Details indicates that "separation will be determined based on the Ampacity calculations during IFC design." Please provide minimum and approximate distances between circuits.

b. Please cross reference the description of the cable installation process provided in Appendix 21-2.

#### **Exhibit 6 - Public Health and Safety**

1.19 NYCRR §900-2.7(b)(5) requires "[a]description of a cyber security program for the protection of digital computer and communication systems and networks that supports the facility demonstrating compliance with current standards... and providing for periodic validation of compliance with the applicable standard by an independent auditor." Please provide a revised confidential Site Security Plan which includes: (1) General details of cybersecurity programs that

demonstrate compliance with current standards; (2) The time span between periodic audits; (3) Whether the Facility owner, operator, or other entity is responsible for each of tracking, funding, and implementing site upgrades to meet updated standards.

#### **Exhibit 7 - Noise and Vibration**

1. 19 NYCRR §900-2.8(b)(2)(i) requires "[a] maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any existing non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence." 19 NYCRR §900-2.8(b)(2)(ii) requires "[a] maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment." 19 NYCRR §900-2.8(b)(2)(iv) requires "[a] maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average sound level from the facility across any portion of a non-participating property..." Maximum equipment sound power level modeling must include all sources. Please revise the computer noise modeling to include low voltage transformers, tracking motors, the generator, and control house in the site-wide noise modeling. After making these revisions, please reevaluate the overall sound pressure levels at sensitive receptor locations and at external property boundary lines based on the maximum noise limits stated in the regulations.
2. 19 NYCRR §900-2.8(b)(2)(iii) requires that "...[s]hould a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance..." 19 NYCRR §900-2.8(e)(2) requires that "[f]or substation transformers and other solar facility noise sources (such as inverters/medium to low voltage transformers) where no manufacturer's information or pre-construction field tests are available, the sounds will be assumed to be tonal and prominent." After revising the computer noise modeling to include the control house HVAC equipment and generator as described above, please reevaluate the substation only sound pressure levels based on the design goal for the Solar Facility, accounting for tonality (if needed) at non-participating residences.

3. 19 NYCRR §900-2.8(j) (1) requires noise modeling "...[f]or the main phases of construction, and from activities at any proposed batch plant area/laydown area." Please provide modeling for the batch plant or indicate that a batch plant will not be used during the construction phase.
4. 19 NYCRR §900-2.8(p) (3) requires "[s]ite plan and elevation details of substations, as related to the location of all relevant noise sources (e.g., transformers, emergency generator, HVAC equipment, and energy storage systems, if any); specifications, any identified mitigations..." Please confirm whether the generator shown on the Collector Substation Layout (Appendix 7-6) is an emergency generator.
5. 19 NYCRR §900-2.8(p) (5) (ii) requires the application to contain "[s]ound information from manufactures for all noise sources as listed above, and any other relevant noise sources." Please provide manufacturer sound data for the generator and control house HVAC equipment located within the collector substation fenced area.
6. 19 NYCRR §900-2.8(c) (2) requires "...[c]umulative noise analysis...within a three thousand (3,000)- foot radius from any noise source proposed for the facility or within the thirty (30) dBA cumulative noise contour, whichever is greater." Please include turbines and any other noise sources associated with the Jericho Rise, Noble Chateaugay, and Noble Clinton wind facilities in the cumulative impact analysis, as well as noise sources associated with any additional renewable energy generating facilities located within the 3,000-foot radius or thirty dBA contour.

#### **Exhibit 8 - Visual Impacts**

1. 19 NYCRR §900-2.9 (a) (4) requires the exhibit to include "[t]he appearance of the facility upon completion, including building/structure ...architectural design... facade colors and texture". No building elevations were found in Exhibits 8 or 5. Please provide exterior architectural design and elevations of each of the control buildings with façade colors and texture identified.
2. 19 NYCRR §900-2.9(b) (1) requires "...[a] line-of-sight profile shall also be done for resources of statewide concern located



within the VIA study area."

- a. Table 8-4 identifies five (5) federal and state visually sensitive resources and page 41 notes "[f]ive state resources within the VSA." Please reconcile or explain why only four (4) line-of-sight profiles are included in Exhibit 8.
  - b. Table 8-4 identifies three (3) National Register Eligible sites with potential visibility identified as "Not Likely." Please provide additional line of sight profiles, or other evidence, documenting potential visibility from these locations.
3. 19 NYCRR §900-2.9(b)(4) requires that viewpoint selection be based upon the following:
- a. (iii) "[l]evel of viewer exposure (i.e., frequency of viewers or relative numbers, including residential areas, or high-volume roadways)." Please supplement Exhibit 8 with information regarding level of viewer exposure including, but not necessarily limited to local population data and Annual Average Daily traffic (AADT) data regarding viewer exposure from high volume roadways.
  - b. (iv) "[p]roposed land uses." Please identify how proposed non-project land uses within the visual study area were considered in viewpoint selection.
  - c. (v) "[a]ssessment of visual impacts pursuant to the requirements of adopted local laws or ordinances." Please supplement Exhibit 8 with a discussion regarding visual impacts related to the requirements of local laws or ordinances.
4. 19 NYCRR §900-2.9(c)(1) requires photographic simulations of the post-construction appearance of the Facility. The Exhibit includes simulations shown after 10 years of operation of the Facility. Please provide a simulation at each location indicating the plant sizes at less than 2 years after construction is complete.
5. 19 NYCRR §900-2.9(c)(3) requires "[e]ach set of existing and simulated views of the facility shall be compared and rated and the results of the VIA shall be summarized." Please

revise Exhibit 8, Attachment 6, or the cover page of each photo simulation to include a table which includes pre- and post-mitigation comparison rating. Please include a summary of how the totals have been assessed and if any viewpoints have received corresponding mitigation screening.

- 6.19 NYCRR §900-2.9(d) requires "an assessment of ...visual offsets..." Please supplement Exhibit 8 to include additional narrative discussion concerning how the Applicant's proposed Facility utilizes visual offsets to avoid, minimize or mitigate visual impact to the maximum extent practicable.
- 7.19 NYCRR §900-2.9(d)(9)(iii) requires "[u]sing task lighting as appropriate to perform specific tasks; limiting the maximum total outdoor lighting output based on the lowest allowable OSHA limits." Sheet PV-C.08.03 presents "[P]V entrance gate lighting" inconsistent with the regulatory requirement to limit exterior lighting to perform tasks. Please revise the Lighting Plan and associated drawings to remove lighting at the array entrance gates or provide a description of why the array entrance gate lighting is required under OSHA or NESC.

#### **Exhibit 9 - Cultural Resources**

- 1.19 NYCRR §900-2.10(a)(5) requires "[a]n Unanticipated Discovery Plan that shall identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance are encountered during the excavation process." Please update the UDP to include contact details for OPRHP, THPO, DPS, and ORES Staff and provide the referenced OPRHP Human Remains Discovery Protocol.

#### **Exhibit 10 - Geology, Seismology and Soils**

- 1.19 NYCRR §900-2.11(a)(4) requires the Application to "[c]haracterize subsurface conditions where hydraulic horizontal directional drilling is proposed..." Please provide a description of subsurface conditions at the proposed HDD locations at Stuart Road, U.S. Route 11, County Road 23, and around inverters 2, 12, and 17.

#### **Exhibit 11 - Terrestrial Ecology**

- 1.19 NYCRR §900-2.12(a) requires "[a]n identification and description of the type of plant communities present on the

facility site, and adjacent properties within one hundred (100) feet of areas to be disturbed by construction..." Please update Table 11-1 to describe all plant communities and species for adjacent properties within 100' of areas to be disturbed by construction.

2. 19 NYCRR §900-2.12(d) requires "[a] list of the species of mammals, birds, amphibians, terrestrial invertebrates, and reptiles that are likely to occur based on ecological communities present at...the facility..."
  - a. Please provide a single consolidated list of species likely to occur in the Facility site or note the appropriate cross references. Please include terrestrial invertebrate and vole species on the species list.
  - b. Please include locations of Canada thistle (*Cirsium arvense*) in Figure 1 Pre-Construction Mapping of Invasive Species of Appendix 11-1.

#### **Exhibit 12 - NYS Threatened or Endangered Species**

1. 19 NYCRR §900-2.13(d) requires that "...[a]n identification and evaluation of avoidance and minimization measures incorporated into the facility design, as well as any unavoidable potential impacts to NYS threatened or endangered species or species of special concern. Adverse impacts shall be summarized by species impacted and include an assessment of the acreage and/or an estimate number of individual members of each such species affected." Please revise Exhibit 12 and Section 3.0 of Appendix 12-5 to include detailed descriptions of the proposed measures that have been incorporated into the Facility design to avoid, minimize or mitigate potential significant adverse impacts to the identified species of grassland birds. Please include discussion of the proposed laydown area and its location in occupied habitat. If impacts cannot be avoided, please provide information regarding the duration of impacts and any proposed minimization measures, and revise Figure 3 to include the proposed laydown area and the estimated take of breeding habitat.

2. 19 NYCRR §900-2.13(f) requires “[a] Net Conservation Benefit Plan prepared in compliance with section 19 NYCRR §900-6.4(o)...” Please supplement Section 4.2 of Appendix 12-5 with detailed plans for the on-site mitigation parcel, including: the acreage to be created and managed as grassland habitat; the location of that acreage within the parcel; a description of the specific management actions (i.e., brush hogging, tree clearing, plantings) proposed to create suitable habitat; and where such actions are proposed within the parcel. Please provide mitigation and management locations as shapefiles. Please note that mitigation parcels must be located a minimum of 250 meters from wind turbines.

### **Exhibit 13 - Water Resources and Aquatic Ecology**

1. 19 NYCRR §900-2.14(a)(2)(i) requires the application to address “[a]ll existing, active water supply wells or water supply intakes located within 100 feet of any collection lines or access roads.” 19 NYCRR §900-2.14(a)(2)(iii) requires the application to address “[a]ll existing, active water supply wells or water supply intakes located within 200 feet of solar pier/post driving locations...” Please revise Figure 13-1 to clearly indicate which of the located water supply wells within 100 feet of any collection lines or access roads, or within 200 feet of solar pier/post driving locations are currently active. Please provide GIS shapefiles for all identified active and inactive well locations.
2. 19 NYCRR §900-2.14(b)(1) requires “[a] map or series of maps showing delineated boundaries of all federal, state and locally regulated surface waters on the facility site and within 100 feet of areas to be disturbed by construction, including the interconnections...” Please revise Figure 13-3 to label and symbolize the jurisdiction of streams (e.g., Federal, State, unregulated, etc.) on site within the LOD and 100 feet of disturbance and depict the 50-foot buffer around all NYS regulated streams.
3. 19 NYCRR §900-2.14(b)(3) requires, “[a] description of the New York State listed Water Quality Standards and Classification, ambient standards and guidance values, flow, presence of aquatic invasive species and other characteristics...” of surface waters depicted on the map.

Please provide the ambient standards and guidance values, which can be found on the NYSDEC website at:

[https://www.dec.ny.gov/docs/water\\_pdf/togs111.pdf](https://www.dec.ny.gov/docs/water_pdf/togs111.pdf).

4. 19 NYCRR §900-2.14(b) (6) requires “[i]f the applicant cannot avoid all impacts to NYS protected waters, an explanation of all efforts the applicant made to minimize the impacts, including a discussion of all best management practices used during design...”
  - a. Figure 13-3 displays the LOD across Stream S-WCR-2 (Class C(T)). Please clarify if there are activities proposed in this area of the LOD and discuss measures of avoidance and minimization of impacts. If potential impacts to this protected stream will not be avoided, please revise Exhibit 13, section 13(b) (7) to include discussion of the relevant factors and potential mitigation measures in the context of a Stream Restoration and Mitigation Plan.
  - b. Per 19 NYCRR §900-2.14(b) (6) (iv) and §900-2.14(b) (6) (vi) please provide further discussion regarding the tree clearing, grading, and related activities proposed within 50-feet of streams S-JJB-2 and S-WCR-2 and the efforts to avoid and minimize these impacts.
  - c. Per 19 NYCRR §900-2.14(b) (6) (v) please discuss measures taken to account for slopes and erosion potential of NYS protected waters, including an analysis of the impacts of construction activities such as grading and tree clearing on slope, shade, and stabilization, and describe any vegetation proposed to remain in place after selective tree clearing is completed. Please reference midstory vegetation per the requirements of 19 NYCRR §900-2.14 (6) (vii).

#### **Exhibit 14 - Wetlands**

1. Please discuss and provide a summary table detailing the total acreage of the 38 NYS-regulated wetlands delineated by the Applicant, and the total acreage of associated one hundred (100) foot adjacent areas, as delineated by the Applicant in the pre-application and application processes in compliance with 19 NYCRR §§ 900-1.3(e) and 900-2.15(a).

2. 19 NYCRR §900-2.15(a) requires “[a] map or series of maps showing jurisdictional boundaries of all federal, state and locally regulated wetlands and adjacent areas present on the facility site and within one hundred (100) feet of areas to be disturbed by construction...”
  - a. Please revise the Existing Conditions and Clearing Plan (referenced in Tables 14-1 and 14-2) to include legends and symbology for NYS-regulated wetland adjacent areas, which are currently referenced as Stream Buffers (e.g., PV-C.00.06, PV-C.00.07, PV-C.00.08, PV-C.00.11, PV-C.00.12, PV-C.00.16) to ensure consistency between Exhibit 5 design drawings and Figure 14-1 (Delineated Wetlands).
  - b. Please provide updated polygon GIS shapefiles for impacts to wetlands and adjacent areas in Table 14-1 and 14-2. Please ensure that the updated shapefiles include grubbing, undisturbed herbaceous vegetation clearing and the total limits of disturbance, including limits of vegetation maintenance during the operations phase. Please clearly differentiate between areas of forest clearing and selective tree cutting.
3. 19 NYCRR § 900-1.3(e) (5) requires that the Applicant provide “...the approved wetland delineation and associated report in the application,” and 19 NYCRR § 900-2.15(b) requires that Exhibit 14 include “[a]ny reports detailing the results of the delineation survey(s).”
  - a. Please supplement Appendix 14-3 to include the July 2021 Wetland and Stream Delineation Report-Brookside Solar Project, referenced in the ORES July 27, 2021 Wetland Jurisdictional Determination.
  - b. Please supplement Exhibit 14 to include discussion of the updated December 2021 Wetland and Stream Delineation Report included in the application (Appendix 14-1), including any additional information and/or changes to the July 2021 report concerning NYS-regulated wetlands and one hundred (100) foot adjacent areas. Please include a redlined version of the two reports.
4. 19 NYCRR §900-2.15(e) requires “[a] demonstration of avoidance of impacts to such wetlands and their one hundred

(100)-foot adjacent areas by siting all components more than one hundred (100) feet from any delineated NYS wetlands." 19 NYCRR §900-2.15(f) further requires that if the Applicant cannot avoid impacts to all wetlands and adjacent areas, that an explanation be provided of all efforts made by the Applicant to minimize the impact(s) to wetlands and adjacent areas identified in wetlands surveys. For each of the wetlands and adjacent areas identified in Table 14-1 and Table 14-2 (i.e., W-NSD-3, W-JJB-2 and W-JJB-14), please provide an expanded discussion of how the Applicant has avoided impacts to the resources to the maximum extent practicable, with reference to Figure 14-1 and Exhibit 5, as appropriate. If necessary, please supplement Exhibit 14 with a high-resolution map at a scale of 1 inch = 50 feet for each proposed impact area, to demonstrate the extent to which avoidance was achieved.

5.19 NYCRR §900-2.15(f) requires "...[an] explanation of all efforts made to minimize the impacts to wetlands and adjacent areas identified during wetland surveys..." if they cannot be avoided, for "...each proposed impact area..." 19 NYCRR §900-2.15(f)(2) further requires an explanation of "[h]ow the facility design has minimized proposed impacts to NYS wetlands and adjacent areas."

a. Please supplement the general discussion appearing in Exhibit 14, section 14(f), to include site-specific discussion of Applicant's proposed measures to minimize impacts to the maximum extent practicable of Facility components (e.g., PV panels, fencing, open-trenched collection lines, access roads, laydown areas, HDD pits, tree clearing, and vegetative maintenance) to NYS-regulated wetlands and adjacent areas within each impacted area of wetlands (W-JJB-2, W-JJB-14, and W-NSD-3), with references to supporting information in Appendix 14-1 or Exhibit 5. Please include wetland-specific discussion of "[h]ow the facility design and siting minimize impacts to NYS wetlands, or portions of these wetlands, and the function and values provided by these wetlands" (19 NYCRR §900-2.15(f)(3)), and "[h]ow the facility design and siting will maximize and/or improve the function and values provided by the remaining adjacent

areas surrounding the NYS wetlands" (19 NYCRR §900-2.15(f)(4)).

b. Please define the parameters of "selective tree clearing" as it pertains to potential significant adverse impacts to Wetland W-JJB-14 (e.g., the overall tree clearing plan, including tree selection criteria, removal techniques and the height and number of trees proposed for selective tree clearing).

6. 19 NYCRR §900-2.15(g) requires that the Applicant provide "...a Wetland Restoration and Mitigation Plan pursuant to 19 NYCRR §900-10.2(f)(2)..." Please note that Applicant's response as requested above will impact the determination as to whether mitigation is required. For example, and without limitation, ORES will evaluate whether the requested details related to "selective tree clearing" (per 5(b) above) more closely associate this activity with "clearing" which requires mitigation, or "selective cutting." The proposed impacts will dictate the required mitigation ratio as indicated in Table 1 of 19 NYCRR §900-2.15. Please ensure that any proposed Wetland Restoration and Mitigation Plan complies with the parameters set forth in 19 NYCRR §900-2.15(g)(2)(i) through (iv).

#### **Exhibit 16 - Effects on Transportation**

1. 19 NYCRR §900-2.17(a)(1) requires a conceptual site plan depicting all Facility driveway and roadway intersections, showing "[h]orizontal and vertical geometry, the number of approach lanes, the lane widths, [and] shoulder widths..." Please provide horizontal and vertical data for drives including, but not limited to, stationing, curve data, bearings, vertical grades, etc. Additionally, when showing roadway widths, please separate the width into "lane width" and "shoulder width," indicate the material of each and include ranges for all widths listed as variable.

2. 19 NYCRR §900-2.17 (d)(3) requires "[a]n assessment of over-size load deliveries, and the adequacy of roadway systems to accommodate oversize and over-weight vehicles, improvements necessary to accommodate such deliveries, impacts associated with any improvements, and mitigation measures appropriate to minimize such impacts..." Please indicate the design of the



vehicle used in the turning templates to ensure it correctly represents the oversized vehicles to be used and detail the number, weight, size, and frequency of expected oversized vehicles. Please also investigate potential interference from overhead utilities, clarify whether the intersection of CR 23 and US 11 is the only intersection that would be impacted, and verify that smaller roads/intersections on the haul route do not need to be evaluated.

#### **Exhibit 17 - Consistency with Energy Planning Objectives**

1. 19 NYCRR §900-2.18(d) requires "[a] description of the impact the facility would have on regional requirements for capacity." Please discuss the regional requirements for capacity and identify the Facility's impact on these requirements.

#### **Exhibit 18 - Socioeconomic Effects**

1. 19 NYCRR §900-2.19(d) requires "[a]n estimate of incremental school district operating and infrastructure costs due to the construction and operation of the facility, this estimate to be made after consultation with the affected school districts." Please supplement Exhibit 18 to include information obtained during the Applicant's consultation with affected school districts.
2. 19 NYCRR §900-2.19(e) requires "[a]n estimate of incremental... costs that will be incurred for police, fire, emergency... and other municipal, public authority or utility services during the construction and operation of the facility (this estimate to be made after consultation with the affected municipalities, public authorities, and utilities)." Please include information obtained during the Applicant's consultation with police, fire, and emergency response.
3. 19 NYCRR §900-2.19(i) requires "[a]n analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity..." Please discuss whether contingency plans in response to an emergency can be fulfilled by existing local emergency (police, fire, emergency

response) capacity and identify if there are any specific equipment or training deficiencies after consultation with these agencies.

### **Exhibit 21 - Electric System Effects and Interconnection**

- 1.19 NYCRR §900-2.22(g)(1) requires the Applicant to "[d]escribe the substation facilities to be transferred..." where it is contemplated that a portion of a new interconnection substation to be built will be transferred to the transmission owner. Please verify what entity will be responsible for ownership, operation, and maintenance of the POI switching station after construction.

### **Exhibit 22 - Electric and Magnetic Fields**

- 1.19 NYCRR §900-2.23(d)(5) requires "[r]egarding magnetic fields, also model the circuit phase currents equal to the maximum average annual load estimated to be occurring on the power lines within ten (10) years after the proposed facility is put in operation..." Please indicate the maximum average annual load estimated to occur on the power lines within ten years and confirm whether this load was evaluated in the EMF Study.

### **Exhibit 23 - Site Restoration and Decommissioning**

- 1.19 NYCRR §900-2.24(c) requires that the Applicant provide for the Towns of Burke and Chateaugay "[a] gross and net decommissioning and site restoration estimate, the latter including projected salvage value (including reference to the salvage value data source), with line items (and associated dollar amounts) for decommissioning of all facility components..."
  - a. Appendix 23-A states that "[c]osts derived from 2018 RS Means Site Work & Landscaping Costs estimating manual" and that salvage costs were obtained from two different sources during March 2021. Please provide all referenced sources and specific line items and costs from these sources.
  - b. Appendix 23-A states that "[a]ssumes 2% annual cost increase from decommissioning and 1.0% annual cost increase from salvage value." Please provide all costs in 2022 dollars.

**Exhibit 24 - Local Laws and Ordinances**

1. 19 NYCRR §900-2.25(c)(2) requires that the Applicant provide a demonstration “[f]or requests grounded in factors of costs or economics (likely involving economic modeling), that the costs to consumers associated with applying the identified local substantive requirements would outweigh the benefits of applying such provisions.” Please supplement Exhibit 24 with an analysis (including issue-specific information, tables and/or costs) substantiating the financial burden(s) imposed if the Towns of Burke and Chateaugay Solar Energy Law (2018 and 2019) § 7.E.iii were applicable in comparison to the Office’s net decommissioning and site restoration estimate detailed at 19 NYCRR §§900-2.24 and 900-6.6.