STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE
OFFICE OF RENEWABLE ENERGY SITING
AND ELECTRIC TRANSMISSION (ORES)

DRAFT PERMIT FOR A MAJOR RENEWABLE ENERGY FACILITY

IN

Towns of Bellmont, Burke, and Chateaugay, Franklin County and the Town of Clinton, Clinton County

ISSUED TO

NY North Country, LLC

ORES MATTER NO. 23-02973

November 17, 2026

1. PERMIT

The New York State Office of Renewable Energy Siting and Electric Transmission (ORES or the Office) hereby issues this Permit to NY North Country, LLC (North County Wind or the Permittee) pursuant to Article VIII of the Public Service Law (PSL) (Article VIII) and its implementing regulations at 16 NYCRR subparts 1100-1 through 1100-15 (Part 1100).[1] The Permittee is authorized to construct and operate the major renewable energy facility (Facility or Wind Facility), as described in subpart 2 of this Permit, in the Towns of Bellmont, Burke, and Chateaugay, Franklin County, and the Town of Clinton, Clinton County, New York.

Based upon the Office's comprehensive review of the record and as described herein, the Office finds and determines that the proposed Wind Facility, together with applicable provisions of the Uniform Standards and Conditions (USCs) (subpart 4 of Permit), necessary Site Specific Conditions (SSCs) (subpart 5 of Permit), and applicable pre-construction and post-construction compliance filings (subpart 6 of Permit), complies with Article VIII and applicable provisions of the Office's regulations at 16 NYCRR part 1100; and avoids, minimizes, or mitigates, to the maximum extent practicable, potential significant adverse environmental impacts of the Facility.

1.1 Applicability; Powers of Municipalities and State Agencies and Authorities

This Siting Permit is based upon the plans, specifications, reports, statements, agreements, and other information submitted by or on behalf of the Permittee in the application record for this Facility (DMM Matter No. 23-02973), incorporated herein by reference. This information is freely accessible on the ORES section of the New York State Department of Public Service (NYSDPS) website at https://dps.ny.gov/ores-permit-applications, subject to such redactions as are required by law or ordered by the assigned Administrative Law Judges (ALJs).

Pursuant to Article VIII of the Public Service Law and its implementing

[1] The Permit Application was filed with the Office on February 16, 2026, pursuant to Public Service Law (PSL) Article VIII and its implementing regulations at former 16 NYCRR Chapter XI (Part 1100), which were filed with the Secretary of State and became effective July 17, 2024. Revised PSL Article VIII regulations at 16 NYCRR Chapter XI (Parts 1100, 1101, 1102) were filed with the Secretary of State and became effective March 9, 2026. Pursuant to 16 NYCRR § 1100-16.1 of the revised regulations, the revised regulations apply to applications received by the Office on or after their effective date. As such, this Draft Permit references the former regulations at 16 NYCRR Chapter XI (Part 1100).

regulations at 16 NYCRR subparts 1100-1 through 1100-15, the Facility shall be designed, developed, constructed, operated, maintained, and decommissioned in conformity with this Siting Permit and any terms, limitations, or conditions contained herein.

Notwithstanding any other provision of law, including without limitation article eight of the Environmental Conservation Law (ECL) and article seven of the Public Service Law, no other State agency, department or authority, or any municipality or political subdivision, or any agency thereof may, except as expressly authorized under Article VIII of the Public Service Law and its implementing regulations at 16 NYCRR Part 1100, require any approval, consent, permit, certificate, contract, agreement, or other condition for the development, design, construction, operation, maintenance, or decommissioning of the Facility authorized by this Siting Permit.

Nothing in this Siting Permit shall exempt the Facility from compliance with applicable federal laws, rules, and regulations, and the Permittee remains responsible for providing copies of all federal and federally-delegated permits and approvals for the construction and operation of the Facility, simultaneously with other required pre-construction compliance filings as required by this Siting Permit.

1.2 Record of Proceeding

In addition to the information referenced above, the record of this application includes all information submitted with respect to the ORES Application (DMM Matter No. 23-02973), by or on behalf of municipalities and local agencies, members of the public and other participants, as well as ORES and other State agencies and authorities, and is freely accessible on the ORES website, subject to such redactions as are required by law or ordered by the assigned ALJs.

2. PROJECT DESCRIPTION

The Facility is a wind energy generating project in the Towns of Bellmont, Burke, and Chateaugay, Franklin County, and the Town of Clinton, Clinton County, New York, consisting of the following major components: up to 80 wind turbines, as well as an associated underground medium voltage collection system, five permanent meteorological (MET) towers, one aircraft detection lighting system (ADLS) tower, temporary construction laydown areas, a temporary concrete batch plant, gravel access roads, an operation and maintenance building, and a medium voltage-to-transmission voltage

collection substation. The Facility will interconnect to the existing transmission system through an approximately 3,500-foot, 230 kV high-voltage transmission line (gen-tie line) to connect to the existing NYPA-owned 230 kV Willis Substation. The total nameplate capacity of the Facility shall not exceed 384.8 MW.

The proposed Wind Facility will directly contribute to New York's Climate Leadership and Community Protection Act (CLCPA) targets by producing up to 384.8 MW of renewable wind energy directly to New York's energy system. According to the application, the Facility will produce enough zero-emissions energy to power approximately 69,069 households. The Facility will also create job opportunities, support economic growth, and protect public health, safety, and the environment by reducing greenhouse gas emissions.

3. REQUIRED FINDINGS

PSL § 142(5) provides that a final Siting Permit may only be issued if the Office makes a finding that the proposed Facility, together with any applicable USCs, SSCs, and compliance filings set forth in the Permit would comply with applicable laws and regulations. In making this determination, the Office may elect not to apply, in whole or in part, any local law or ordinance that would otherwise be applicable if the Office makes a finding that, as applied to the proposed Facility, the local law or ordinance is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed Facility.

In compliance with PSL § 142(5), the Office has considered the proposed Facility's contribution of up to 384.8 MW toward New York State's CLCPA targets, and the associated environmental benefits of the Facility, which will produce enough zero-emissions energy to power approximately 69,069 homes and meaningfully reduce greenhouse gas emissions in New York State.

The Permittee has requested that the Office elect not to apply the following provisions of "Wind Energy Facility Law of the Town of Bellmont, New York." (Bellmont Wind Law); "Wind Energy Facility Law of the Town of Burke, New York." (Burke Wind Law); "Wind Energy Facility Law of the Town of Chateaugay, New York." (Chateaugay Wind Law); and "Wind Energy Facility Law of the Town of Clinton, New York." (Clinton Wind Law). The Office elects not to apply, in whole or in part, the local law or ordinance provisions specified below that are unreasonably burdensome when applied to the proposed Facility. In making the determinations herein, the Office has balanced the proposed Facility's competing impacts to multiple resources, and considered the

Permittee's proposed measures to avoid, minimize, or mitigate those impacts to the maximum extent practicable, while ensuring protection of the environment and consideration of all pertinent social, economic, and environmental factors.

Except for the provisions of local law or ordinance identified below, the Office finds that the Facility, as proposed and permitted herein, shall comply with the substantive provisions of the applicable local laws or ordinances of the Towns of Bellmont, Burke, Chateaugay, and Clinton as identified in the Application and Application Supplements.

(a) Town of Bellmont

(1) Decommissioning Security Requirements

§ 10(10)(5) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … 5) acknowledgement that the decommissioning costs shall be re-estimated, by a licensed engineer, every three years, and that the decommissioning cost will be kept current indexed to inflation…"

§ 17(C) "… This Decommission Fund shall be adjusted every three years for changes in costs of decommissioning and restoration as well as adjusted for inflation…"

Based upon the record in this case, the Office approves limited relief from these clauses of the Bellmont Wind Law §§ 10(10)(5) and 17(C) to the extent they require the decommissioning and site restoration estimate to be recalculated inconsistently with subparts 4.6 and 6.1 of this Permit. The Permittee shall provide decommissioning and site restoration security pursuant to subparts 4.6(b) and 6.1(b) of this Permit.

(2) Decommissioning Removal Requirements

§ 10(10)(6) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … 6) the manner in which the WECS [Wind Energy Conversion System] will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of 4 feet…"

§ 17(A) "…Removal of the WECS shall include at least the entire above ground structure and connected facilities down to 4 feet below grade,

including transmission equipment and fencing and such other associated parts…"

Based upon the record in this case, the Office approves limited relief from these clauses of §§ 10(10)(6) and 17(A) of the Bellmont Wind Law to the extent they require removal of the WECS to a depth of four feet in non-agricultural areas. The Permittee shall conduct decommissioning and site restoration as required by subparts 4.6(a) and 6.1(b)(1).

(3) Maximum Turbine Height

§ 12(A)(13) "The maximum Total Height of any WECS shall not exceed 400 feet from existing/original grade."

Based upon the record in this case, the Office approves relief from § 12(A)(13) of the Bellmont Wind Law, provided that the maximum total height of any WECS shall not exceed 700 feet, as described in the Application, as supplemented.

(4) Construction Hours

§ 12(A)(14) "Construction of the WECS shall be limited to the hours of 7 a.m. to 7 p.m., except for certain activities that require work at other times during the day…"

Based upon the record in this case, the Office approves limited relief from this clause of § 12(A)(14) of the Bellmont Wind Law. The Facility must comply with the construction hours set forth in subpart 4.4(a) of this Permit.

(b) Town of Burke

(5) Decommissioning Security Requirements

§ 10(j)(v) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … v. acknowledgment that the decommissioning costs shall be re-estimated, by a licensed engineer, every three years, and that the decommissioning cost will be kept current indexed to inflation;"

§ 17(c) "… This Decommission Fund shall be adjusted every three years for changes in costs of decommissioning and restoration as well as adjusted for inflation. …"

Based upon the record in this case, the Office approves limited relief from these clauses of the Burke Wind Law §§ 10(j)(v) and 17(c) to the extent they require the decommissioning and site restoration estimate to be recalculated inconsistently with subparts 4.6 and 6.1 of this Permit. The Permittee shall provide decommissioning and site restoration security pursuant to subparts 4.6(b) and 6.1(b) of this Permit.

(6) Decommissioning Removal Requirements

§ 10(j)(vi) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … vi. the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of 4 feet…"

§ 17(a) "… Removal of the WECS shall include at least the entire above ground structure and connected facilities down to 4 feet below grade, including transmission equipment and fencing and such other associated parts…"

Based upon the record in this case, the Office approves limited relief from these clauses of §§ 10(j)(vi) and 17(a) of the Burke Wind Law to the extent they require removal of the WECS to a depth of four feet in non-agricultural areas. The Permittee shall conduct decommissioning and site restoration as required by subparts 4.6(a) and 6.1(b)(1).

(7) Construction Hours

§ 12(a)(xiv) "… Construction of the WECS shall be limited to the hours of 7 a.m. to 7 p.m., except for certain activities that require work at other times during the day…"

Based upon the record in this case, the Office approves limited relief from this clause of § 12(a)(xiv) of the Burke Wind Law. The Facility must comply with the construction hours set forth in subpart 4.4(a) of this Permit.

(8) Non-Participating Property Line Setback

§ 15(e)(i) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained… i. 120% of the Total Height of the WECS … from all Site Boundary Lines…"

Based upon the record in this case, the Office approves limited relief from this clause of § 15(e)(i) of the Burke Wind Law, as applied to WECS T-06, T-07, T-18, T-24, T-26, T-28, T-35, T-40, and T-43. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(9) Public Road Setback

§ 15(e)(ii) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained… ii. … 120% of the height of the WECS… from all other public roads."

Based upon the record in this case, the Office approves limited relief from § 15(e)(ii) of the Burke Wind Law, as applied to WECS T-17, T-26, T-42, and T-43. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(10) Off-Site Residence Setback

§ 15(e)(iii) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained… iii. 260% of the Total Height of the WECS from the nearest off-Site Residence, measured from the exterior of such Residence. Notwithstanding any other provision of this Local Law regarding waivers or setback easements, no WECS shall be within a setback equal to 240% of the WECS tower height but in any event at least 1200 feet of any Residence, whether or not said Residence is located in the Town of Burke."

Based upon the record in this case, the Office approves limited relief from § 15(e)(iii) of the Burke Wind Law. Relief from the 260% of the total height of the WECS from the nearest off-site residence setback is limited

to WECS T-9, T-10, T-18, T-21, T-22, T-26, T-27, T-30, T-36, and T-39. Relief from the 240% of the WECS tower height, but in any event at least 1200 feet of any residence, setback is limited to WECS T-7, T-10, T-11, T-13, T-15, T-17, T-18, T-19, T-22, T-23, T-27, T-30, T-32, T-34, T-35, T-37, T-38, and T-41. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(11) School Setback

§ 15(e)(iv) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained… iv. 500% of the Total Height of the WECS but not less than 2500 feet from the property line of any school…."

Based upon the record in this case, the Office approves limited relief from § 15(e)(iv) of the Burke Wind Law as applied to WECS T-38, T-39, T-40, and T-43. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(c) Town of Chateaugay

(12) Decommissioning Security Requirements

§ 10(10)(5) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … 5) acknowledgement that the decommissioning costs shall be re-estimated, by a licensed engineer, every three years, and that the decommissioning cost will be kept current indexed to inflation…"

§ 17(C) "Decommissioning Fund… This Decommission Fund shall be adjusted every three years for changes in costs of decommissioning and restoration as well as adjusted for inflation…"

§ 28(C) "Decommissioning Fund… This Decommission Fund shall be adjusted every three years for changes in costs of decommissioning and restoration, as well as adjusted for inflation…"

Based upon the record in this case, the Office approves limited relief from these clauses of the Chateaugay Wind Law §§ 10(10)(5), 17(C), and

28(C) to the extent they require the decommissioning and site restoration estimate to be recalculated inconsistently with subparts 4.6 and 6.1 of this Permit. The Permittee shall provide decommissioning and site restoration security pursuant to subparts 4.6(b) and 6.1(b) of this Permit.

(13) Decommissioning Removal Requirements

§ 10(10)(6) "Decommissioning Plan: The Applicant shall submit a decommissioning plan, which shall include: … 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of 4 feet…"

§ 17(A) "… Removal of the WECS shall include at least the entire above ground structure and connected facilities down to 4 feet below grade, including transmission equipment and fencing and such other associated parts…"

Based upon the record in this case, the Office approves limited relief from these clauses of §§ 10(10)(6) and 17(A) of the Chateaugay Wind Law to the extent they require removal of the WECS to a depth of four feet in non-agricultural areas. The Permittee shall conduct decommissioning and site restoration as required by subparts 4.6(a) and 6.1(b)(1).

(14) Undergrounding Requirement

§ 12(A)(1) "… 1. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable."

Based upon the record in this case, the Office approves limited relief from § 12(A)(1) of the Chateaugay Wind Law to the extent applicable to a portion of 34.5 kV collection line crossing the Chateaugay River. Final design shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subparts 5(a) and 6.1(f)(6) of this Permit.

(15) Construction Hours

§ 12(A)(14) "The following standards shall apply to all WECS, unless specifically waived by the Town Board as part of a Wind Energy Permit…

14. Construction of the WECS shall be limited to the hours of 7 a.m. to 7 p.m., except for certain activities that require work at other times during the day…"

Based upon the record in this case, the Office approves limited relief from this clause of § 12(A)(14) of the Chateaugay Wind Law. The Facility must comply with the construction hours set forth in subpart 4.4(a) of this Permit.

(16) Public Road Setback

§ 15(E)(1) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained: …1. 240% of the total height of WECS but not less than 1320 feet from US Route 11, NYS Route 374, and Franklin County Route 52, and 120% of the height of the WECS but not less than 600 feet from all other public roads…"

Based upon the record in this case, the Office approves limited relief from § 15(E)(1) of the Chateaugay Wind Law. Relief from the 240% of the total height of WECS but not less than 1320 feet from US Route 11, NYS Route 374, and Franklin County Route 52 setbacks are limited to WECS T-63, T-65, T-66, and T-82. Relief from 120% of the height of the WECS but not less than 600 feet from all other public roads setback is limited to WECS T-45, T-68, T-71, and T-82. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(17) Participating Residence Setback

§ 15(E)(2) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained: … 2. 200% of the height of the WECS. but not less than 1320 feet from participating residences whichever is greater…"

Based upon the record in this case, the Office approves limited relief from § 15(E)(2) of the Chateaugay Wind Law as applied to WECS T-47, T-48, T-49, T-57, T-58, T-60, T-62, T-63, T-68, T-71, and T-82. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table

1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(18) Non-Participating Residence Setback

§ 15(E)(3) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained: … 3. 300% of the height of the WECS. but not less than 1320 feet from non-participating residences measured from the exterior of such residence…"

Based upon the record in this case, the Office approves limited relief from § 15(E)(3) of the Chateaugay Wind Law as applied to WECS T-45, T-48, T-50, T-51, T-52, T-54, T-55, T-56, T-61, T-63, and T-67. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(19) School Setback

§ 15(E)(4) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained: … 4. 500% of the total height of the WECS but not less than 1320 feet from the property line of any school or nursing facility…"

Based upon the record in this case, the Office approves limited relief from § 15(E)(4) of the Chateaugay Wind Law as applied to WECS T-53, T-54, and T-55. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(20) Residence Setback

§ 15(E)(6) "Each WECS shall be setback [sic] from Site boundaries. All measurements shall be from the perimeter of the proposed Site, or from each proposed WECS, as applicable, and each of the following setbacks shall be met and maintained: … 6. Notwithstanding any other provision of this law regarding waivers or setback easements, no WECS shall be within a

setback of at least 1320 feet of any residence whether or not said residence is in the Town of Chateaugay…"

Based upon the record in this case, the Office approves limited relief from § 15(E)(6) of the Chateaugay Wind Law as applied to WECS T-47, T-48, T-49, T-57, T-58, T-60, T-62, T-63, T-68, T-71, and T-82. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(d) Town of Clinton

(21) Decommissioning Security Requirements

§ 10(10)(5) "Decommissioning Plan: The applicant shall submit a decommissioning plan, which shall include: … (5) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current…"

Based upon the record in this case, the Office approves limited relief from this clause of the Clinton Wind Law §§ 10(10)(5) to the extent it requires the decommissioning and site restoration estimate to be recalculated inconsistently with subparts 4.6 and 6.1 of this Permit. The Permittee shall provide decommissioning and site restoration security pursuant to subparts 4.6(b) and 6.1(b) of this Permit.

(22) Maximum Turbine Height

§ 12(A)(13) "The maximum Total Height of any WECS shall be 400 feet."

Based upon the record in this case, the Office approves relief from § 12(A)(13) of the Clinton Wind Law, provided that the maximum total height of any WECS shall not exceed 700 feet, as described in the Application, as supplemented.

(23) Construction Hours

§ 12(A)(14) "Construction of the WECS shall be limited to the hours of 7 a.m. to 7 p.m. except for certain activities that require cooler temperatures than possible during the day…"

Based upon the record in this case, the Office approves limited relief from this clause of § 12(A)(14) of the Clinton Wind Law. The Facility must comply with the construction hours set forth in subpart 4.4(a) of this Permit.

(24) Fencing

§ 13(B) "… a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers…"

Based upon the record in this case, the Office approves relief from this clause of § 13(B) of the Clinton Wind Law. The Permittee shall comply with the Site Security Plan pursuant to 16 NYCRR 1100-2.7(b).

(25) Participating Structure Setback

§ 15(E)(6) "Each WECS shall be setback [sic] from Site boundaries, measured from: the center of the WECS: … 6. One and a quarter times the Total Height of the WECS from any non-WECS structure or any above-ground utilities; unless waived by the utility companies."

Based upon the record in this case, the Office approves limited relief from § 15(E)(6) of the Clinton Wind Law as applied to WECS T-78. The Facility must comply with the setbacks set forth in 16 NYCRR § 1100-2.6(b), Table 1. Final turbine locations shall be reviewed pursuant to 16 NYCRR § 1100-11.1 and subpart 5(a) of this Permit.

(26) Wetland Setback

§ 15(E)(7) "Each WECS shall be setback [sic] from Site boundaries, measured from: the center of the WECS: … 7. 100 feet from state-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses and other factors that influence the flight patterns of resident birds."

Based upon the record in this case, the Office approves limited relief from § 15(E)(7) of the Clinton Wind Law as applied to WECS T-59, as described in Appendix 24-A as supplemented (Record 153).

4. UNIFORM STANDARDS AND CONDITIONS (16 NYCRR subpart 1100-6)

The Permittee shall comply with the following USCs during construction and operation of the Facility over the life of this Permit. Certain USCs are intentionally omitted, as noted below, due to the fact that the Facility has been designed to comply with the USC and/or avoid impacts to a particular resource, the resource is not present at this Facility, or the specific technology proposed renders the USC inapplicable.

4.1. Facility Authorization (16 NYCRR § 1100-6.1):

(a) ***Compliance.*** The Permittee shall implement any impact avoidance, minimization and/or mitigation measures identified in the exhibits, compliance filings and/or contained in a specific plan required under 16 NYCRR Part 1100, as approved by the Office. If there is any discrepancy between an exhibit or compliance filing and a permit condition, the Permittee shall comply with the permit condition and notify the Office immediately for resolution.

(b) ***Property Rights.*** Issuance of a siting permit does not convey any rights or interests in public or private property. The Permittee shall be responsible for obtaining all real property, rights-of-way (ROW), access rights and other interests or licenses in real property required for the construction and operation of the facility.

(c) ***Eminent Domain.*** Issuance of a siting permit to a Permittee that is an entity in the nature of a merchant generator and not in the nature of a fully regulated public utility company with an obligation to serve customers does not constitute a finding of public need for any particular parcel of land such that a condemner would be entitled to an exemption from the provisions of Article 2 of the New York State Eminent Domain Procedure Law ("EDPL") pursuant to Section 206 of the EDPL.

(d) ***Other Permits and Approvals.*** Prior to the Permittee's commencement of construction, the Permittee shall be responsible for obtaining all necessary federal and federally-delegated permits and any other approvals that may be required for the facility and which the Office is not empowered to provide or has expressly authorized. In addition, the Office expressly authorizes:

(1) The Public Service Commission (PSC) to require approvals, consents, permits, other conditions for the construction or operation of the facility under PSL Sections 68, 69, 70, and Article VII, as applicable, with the understanding that the PSC

will not duplicate any issue already addressed by the Office and will instead only act on its police power functions related to the entity as described in the body of this siting permit;

(2) The New York State Department of Transportation (NYSDOT) to administer permits associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the facility; and

(3) The pertinent agency to implement the New York State Uniform Fire Prevention and Building Code.

(e) ***Water Quality Certification***. Prior to commencing construction, the Permittee shall request and obtain from the Office a water quality certification pursuant to Section 401 of the Clean Water Act, if required.

(f) ***Host Community Benefits***. The Permittee shall provide host community benefits, such as Payments in Lieu of Taxes (PILOTs), other payments pursuant to a host community agreement, or other project(s) agreed to by the host community.

(g) ***Notice to Proceed with Construction***. The Permittee and its contractors shall not commence construction until a "Notice to Proceed with Construction" has been issued by the Office. Such Notice will be issued promptly after all applicable pre-construction compliance filings have been filed by the Permittee and approved by the Office. The Notice will not be unreasonably withheld. The Office may issue a conditional "Notice to Proceed with Site Preparation" for the removal of trees, stumps, shrubs, and vegetation from the facility site as indicated on Office-approved site clearing plans to clear the facility site for construction, as well as setting up and staging of the laydown yard(s), including bringing in equipment, prior to the submission of all pre-construction compliance filings.

(h) ***Expiration***. The siting permit will automatically expire if the facility does not achieve commencement of commercial operation within seven (7) years from the date of issuance.

(i) ***Partial Cancellation***. If the Permittee decides not to commence construction of any portion of the facility, it shall so notify the

Office promptly after making such decision. Such decisions shall not require a modification to the siting permit unless the Office determines that such change constitutes a major modification to the siting permit pursuant to 16 NYCRR § 1100-11.1.

(j) ***Deadline Extensions***. The Office may extend any deadlines established by the siting permit for good cause shown. Any request for an extension shall be in writing, include a justification for the extension, and be filed at least fourteen (14) business days prior to the applicable deadline.

(k) ***Office Authority***. The Permittee shall regard New York State Department of Public Service (NYSDPS) staff, authorized pursuant to PSL § 66(8), as the Office's representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the siting permit, compliance filings or any other supplemental filings, such NYSDPS staff may issue a stop work order for that location or activity pursuant to 16 NYCRR § 1100-12.1.

4.2. Notifications (16 NYCRR § 1100-6.2):

(a) ***Pre-Construction Notice Methods***. At least fourteen (14) business days prior to the Permittee's commencement of construction date, the Permittee shall notify the public as follows:

(1) Provide notice by mail to all persons residing within one (1) mile of a solar facility or within five (5) miles of a wind facility;

(2) Provide notice to local Town and County officials and emergency personnel;

(3) Publish notice by mail in the local newspapers of record for dissemination, including at least one free publication, if available (e.g., Pennysaver);

(4) Provide notice for display in public places, which shall include, but not be limited to, the Town Halls of the host municipalities, at least one (1) library in each host municipality, at least one (1) post office in each host municipality, the facility website, and the facility construction trailers/offices; and

(5) File notice with the Office for posting on the Office website.

(b) ***Proof of Notice to Office.*** At least fourteen (14) business days prior to commencement of construction, the Permittee shall file with the Office an affirmation that it has provided the notifications required by subdivision (a) of this section and include a copy of the notice(s), as well as a distribution list.

(c) ***Post-Construction Notice.*** Prior to the completion of construction, the Permittee shall notify the entities identified in paragraphs (a)(1)-(5) of this section with the contact name, telephone number, email and mailing address of the facility operations manager, as well as all information required in subdivision (d)(1)-(2) and (4)-(7) of this section.

(d) ***Contents of Notice.*** The Permittee shall write the notice(s) required in subdivisions (a) and (c) of this section in plain language reasonably understandable to the average person and shall ensure that the notice(s) contain(s):

(1) A map of the facility;

(2) A brief description of the facility;

(3) The construction schedule and transportation routes;

(4) The name, mailing address, local or toll-free telephone number, and email address of the appropriate facility contact for development, construction, and operations;

(5) The procedure and contact information for registering a complaint;

(6) Contact information for the Office and the NYSDPS; and

(7) A list of public locations where information on the facility, construction, and the Permittee will be posted.

(e) ***Notice of Completion of Construction and Restoration.*** Within fourteen (14) days of the completion of final post-construction restoration, the Permittee shall notify the NYSDPS, with a copy to the Office, that all such restoration has been completed in compliance with the siting permit and applicable compliance filings and provide an anticipated date of

commencement of commercial operation of the facility.

4.3. General Requirements (16 NYCRR § 1100-6.3):

(a) ***Local Laws.*** The Permittee shall construct and operate the facility in accordance with the substantive provisions of the applicable local laws as identified in 16 NYCRR § 1100-2.25, except for those provisions of local laws that the Office determined to be unreasonably burdensome, as stated in the siting permit.

(b) ***Federal Requirements.*** The Permittee shall construct and operate the facility in a manner that conforms to all applicable federal and federally-delegated permits identified in 16 NYCRR § 1100-2.26. If relevant facility plans require modifications due to conditions of federal permits, the final design drawings and all applicable compliance filings shall be revised accordingly and submitted for review and approval pursuant to 16 NYCRR § 1100-11.1.

(c) ***Traffic Coordination.*** The Permittee shall coordinate with State, county, and local highway agencies to respond to and apply applicable traffic control measures to any locations that may experience any traffic flow or capacity issues.

4.4. Facility Construction and Maintenance (16 NYCRR § 1100-6.4):

(a) ***Construction Hours.*** Construction and routine maintenance activities on the facility shall be limited to 7 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 8 p.m. on Sunday and national holidays, with the exception of construction and delivery activities, which may occur during extended hours beyond this schedule on an as-needed basis.

(1) Construction work hour limits apply to facility construction, maintenance, and to construction-related activities, including maintenance and repairs of construction equipment at outdoor locations, large vehicles idling for extended periods at roadside locations, and related disturbances. This condition shall not apply to vehicles used for transporting construction or maintenance workers, small equipment, and tools used at the facility site for construction or maintenance activities.

(2) If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable

work hours, the Permittee shall notify the NYSDPS, the Office, affected landowners and the municipalities. Such notice shall be given at least twenty-four (24) hours in advance, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided.

(b) ***Environmental and Agricultural Monitoring***.

(1) The Permittee shall hire an independent, third-party environmental monitor to oversee compliance with environmental commitments and siting permit requirements. The environmental monitor shall perform regular site inspections of construction work sites and, in consultation with the NYSDPS, issue regular reporting and compliance audits.

(2) The environmental monitor shall have stop work authority over all aspects of the facility. Any stop work orders shall be limited to affected areas of the facility. Copies of the reporting and compliance audits shall be provided to the host town(s) upon request.

(3) The Permittee shall identify and provide qualifications and contact information for the independent, third-party environmental monitor to the NYSDPS, with a copy to the Office.

(4) If the environmental monitor is not qualified, the Permittee shall also retain an independent, third-party agriculture-specific environmental monitor as required in 16 NYCRR § 1100-6.4(s).

(5) The Permittee shall ensure that its environmental monitor and agricultural monitor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor the Permittee's contractor's compliance with the provisions of the siting permit with respect to such Permittee's facility components and to applicable sections of the Public Service Law, Executive Law, Environmental Conservation Law, and Clean Water Act Section 401 Water Quality Certification.

(c) ***Pre-Construction Meeting.*** At least fourteen (14) days before the

commencement of construction, the Permittee shall hold a pre-construction meeting with staff of the Office, NYSDPS, New York State Department of Environmental Conservation (NYSDEC), New York State Department of Agriculture and Markets (NYSAGM), NYSDOT, municipal supervisors/mayors and highway departments, and county highway departments. The balance of plant (BOP) construction contractor, the agricultural monitor and environmental monitor shall be required to attend the pre-construction meeting.

(1) An agenda, the location, and an attendee list shall be agreed upon between staff of the Office and the NYSDPS and the Permittee and distributed to the attendee list at least one (1) week prior to the meeting;

(2) Maps showing designated travel routes, construction worker parking and access road locations and a general facility schedule shall be distributed to the attendee list at least one (1) week prior to the meeting;

(3) The Permittee shall supply draft minutes from this meeting to the attendee list for corrections or comments, and thereafter the Permittee shall issue the finalized meeting minutes; and

(4) If, for any reason, the BOP contractor cannot finish the construction of the facility, and one (1) or more new BOP contractors are needed, there shall be another pre-construction meeting with the same format as outlined in this section.

(d) ***Construction Reporting and Inspections.*** During facility construction, the Permittee shall report construction status and support inspections as follows:

(1) Every two (2) weeks, the Permittee shall provide NYSDPS and Office staff, and the host municipalities with a report summarizing the status of construction activities, and the schedule and locations of construction activities for the next two (2) weeks.

(2) Prior to entry onto the facility site for on-site inspections, the Permittee shall conduct a tailgate meeting to communicate required safety procedures and worksite hazards to site inspectors.

(3) The Permittee shall accommodate reviews of any of the following

during a monthly inspection and at other times as may be determined by NYSDPS staff:

(i) The status of compliance with siting permit conditions;

(ii) Field reviews of the facility site;

(iii) Actual or planned resolutions of complaints;

(iv) Significant comments, concerns, or suggestions made by the public, municipalities, or other agencies and indicate how the Permittee has responded to the public, local governments, or other agencies; and

(v) The status of the facility in relation to the overall schedule established prior to the commencement of construction; and

(vi) Other items the Permittee, NYSDPS staff, or Office staff consider appropriate.

(4) After every monthly inspection, the Permittee shall provide the municipalities and agencies involved in the inspection with a written record of the results of the inspection, including resolution of issues and additional measures to be taken.

(e) ***Flagging.*** At least two (2) weeks before tree clearing or ground disturbing activities, the Permittee shall stake or flag the planned limits of disturbance (LOD), the boundaries of any delineated NYS-regulated wetlands, waterbodies or streams in the LOD (as identified in the delineations prepared pursuant to 16 NYCRR §§ 1100-1.3(e) and (f)), and any known archeological sites identified in the approved Cultural Resources Avoidance, Minimization and Mitigation Plan required in 16 NYCRR § 1100-10.2(g), all on or off ROW access roads, limits of clearing and other areas needed for construction, including, but not limited to, turbine work areas, proposed infiltration areas for post-construction stormwater management, and laydown and storage areas. In addition, archeological sites shall be surrounded with construction fencing and a sign stating restricted access.

(f) ***UDig NY.*** Prior to the commencement of construction, the Permittee shall become a member of UDig NY. The Permittee shall require all contractors, excavators, and operators associated with its facilities to comply with

the requirements of the PSC's regulations regarding the protection of underground facilities at 16 NYCRR Part 753.

(g) ***Natural Gas Pipeline Cathodic Protection.*** The Permittee shall contact all pipeline operators within the facility site and land owners, if necessary, on which facility components are to be located or whose property lines are within the zone of safe siting clearance, if any, and shall reach an agreement with each operator to provide that the facility's collection and interconnection systems will not damage any identified pipeline's cathodic protection system or produce damage to the pipeline, either with fault current or from a direct strike of lightning to the collection and interconnection systems, specifically addressing 16 NYCRR § 255.467 (External corrosion control; electrical isolation).

(h) ***Pole Numbering.*** The Permittee shall comply with all requirements of the PSC's regulations regarding identification and numbering of above-ground utility poles at 16 NYCRR Part 217.

(i) ***Fencing.*** All mechanical equipment, including any structure for storage of batteries, shall be enclosed by fencing of a minimum height of seven (7) feet with a self-locking gate to prevent unauthorized access.

(j) ***Air Emissions.*** To minimize air emissions during construction, the Permittee shall:

(1) Prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used;

(2) Implement dust control procedures to minimize the amount of dust generated by construction activities in a manner consistent with the Standards and Specifications for Dust Control, as outlined in the New York State Standards and Specifications for Erosion and Sediment Control (see 16 NYCRR § 1100-15.1(i)(1)(i));

(3) Use construction equipment powered by electric motors where feasible, or by ultra-low sulfur diesel; and

(4) Dispose or reuse cleared vegetation in such a way that that minimizes greenhouse gas emissions (e.g., lumber production or composting).

(k) ***Construction Noise.*** To minimize noise impacts during construction, the Permittee shall:

(1) Maintain functioning mufflers on all transportation and construction machinery;

(2) Respond to noise and vibration complaints according to the complaint resolution protocol approved by the Office; and

(3) Comply with all substantive provisions of all local laws regulating construction noise unless they are waived.

(l) ***Visual Mitigation.***

(1) *Wind Facilities*. The Permittee shall implement the approved Visual Impacts Minimization and Mitigation Plan required in 16 NYCRR § 1100-2.9, including the following:

(i) Adoption of visual design features requirements;

(ii) Visual contrast minimization and mitigation measures;

(iii) Operational effects minimization measures, including shadow flicker minimization mitigation and other measures necessary to achieve a maximum of thirty (30) hours annually at any non-participating residential receptor, subject to verification using shadow prediction and operational controls at appropriate wind turbines;

(iv) Lighting Plan; and

(v) Screen Planting Plans.

(2) **[INTENTIONALLY OMITTED] (Solar)**

(3) *Screen Planting Plans.* The Permittee shall retain a qualified landscape architect, arborist, or ecologist to inspect the screen plantings for two (2) years following installation to identify any plant material that did not survive, appears unhealthy, and/or otherwise needs to be replaced. The Permittee shall remove and replace plantings that fail in materials, workmanship, or growth

within two (2) years following the completion of installing the plantings.

(m) ***General Environmental Requirements.***

(1) *Limits of Disturbance (LOD).* Construction shall not directly disturb areas outside the construction limits shown on the design drawings.

(2) *Blasting.* Blasting shall be designed and controlled to meet the limits for ground vibration set forth in United States Bureau of Mines Report of Investigation 8507 Figure B-1 (see 16 NYCRR § 1100-15.1(k)(1)(i)) and air overpressure shall be under the limits set forth in the Conclusion Section in United States Bureau of Mines Report of Investigation 8485 (USBM RI 8507 and USBM RI 8485 (see 16 NYCRR § 1100-15.1(k)(1)(ii)) to protect structures from damage.

(3) *Karst.* Blasting operations in locations where geotechnical investigations confirm the presence of subsurface karst features shall be limited or performed under specific procedures recommended for those locations by a geotechnical engineer licensed to practice in the State of New York.

(4) *E&S Materials.* Permanent erosion control fabric or netting used to stabilize soils prior to establishment of vegetative cover or other permanent measures shall be one hundred (100) percent biodegradable natural product, excluding silt fence. Use of hay for erosion control or other construction-related purposes is prohibited to minimize the risk of introduction of invasive plant species.

(5) *Spill Kits.* All construction vehicles and equipment shall be equipped with a spill kit. All equipment shall be inspected daily for leaks of petroleum, other fluids, or contaminants; equipment may only enter a stream channel if found to be free of any leakage. Any leaks shall be stopped and cleaned up immediately. Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the NYSDEC's Spill Hotline within two (2) hours, in accordance with the NYSDEC Spill Reporting and Initial Notification Requirements Technical Field Guidance (see 16 NYCRR § 1100-15.1(i)(1)(iii)). The Office and the NYSDPS shall also be notified of all reported spills in a timely manner.

(6) *Construction Debris*. Any debris or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials is allowed.

(7) *Clearing Areas*. Tree and vegetation clearing shall be limited to the minimum necessary for facility construction and operation, and as detailed on final construction plans.

(8) *Clearing Methods*. When conducting clearing, the Permittee shall:

(i) Comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and ECL § 9-1303 and any quarantine orders issued thereunder;

(ii) Not create a maximum wood chip depth greater than three (3) inches, except for chip roads (if applicable), nor store or dispose wood chips in wetlands, within stream banks, delineated floodways, or active agricultural fields;

(iii) Not dispose of vegetation or slash by burning anywhere or burying within a wetland or adjacent area; and

(iv) Coordinate with landowners to salvage merchantable logs and fuel wood. Where merchantable logs and fuel wood will not be removed from the facility site during clearing activities, final construction plans shall indicate locations of stockpiles to be established for removal from site or future landowner resource recovery.

(9) *Invasive Insects*. To control the spread of invasive insects, the Permittee shall provide training for clearing and construction crews to identify the Asian Longhorn Beetle and the Emerald Ash Borer and other invasive insects of concern as a potential problem at the facility site. If these insects are found, they shall be reported to the NYSDEC as soon as practicable.

(n) *Water Supply Protection*.

(1) *For wind facilities*:

(i) No wind turbine shall be located within one hundred (100)

feet of an existing, active water supply well or water supply intake.

(ii) Blasting shall be prohibited within five hundred (500) feet of any known existing, active water supply well or water supply intake on a non-participating property.

(iii) The Permittee shall engage a qualified third party to perform pre- and post- construction testing of the potability of water wells within the below specified distances of construction disturbance before commencement of construction and after completion of construction to ensure the wells are not impacted, provided the Permittee is granted access by the property owner.

a. Collection lines or access roads within one hundred (100) feet of an existing, active water supply well on a non-participating property;

b. Blasting within one thousand (1,000) feet of an existing, active water supply well on a non-participating property; and

c. Horizontal Directional Drilling (HDD) operations within five hundred (500) feet of an existing, active water supply well on a non-participating property.

(iv) Should the third-party testing, as required by subparagraph (iii) of this paragraph, conclude that the water supplied by an existing, active water supply well met federal (see 16 NYCRR § 1100-15.1(j)(1)(i)) and state standards for potable water (see 10 NYCRR Part 75, Appendix 75-c) prior to construction, but failed to meet such standards after construction as a result of facility activities, the Permittee shall cause a new water well to be constructed, in consultation with the property owner, at least one hundred (100) feet from collection lines and access roads, and at least five hundred (500) feet from wind turbines, as practicable given siting constraints and landowner preferences. The results of such tests and reports shall be made available to the relevant municipalities upon request.

(2) **[INTENTIONALLY OMITTED] (Solar)**

(o) ***Threatened and Endangered Species***.

(1) For facilities that would impact NYS threatened or endangered species other than NYS threatened or endangered grassland birds or their habitat, the Permittee shall implement an approved Net Conservation Benefit Plan (NCBP) that shall include the following:

(i) A demonstration that the NCBP results in a positive benefit on each of the affected species;

(ii) Detailed explanation of the net conservation benefit to the species based on the actual location and type of minimization measures to be taken for each of the affected species;

(iii) Full source information supporting a determination as to the net conservation benefit for each of the affected species;

(iv) A consideration of potential minimization and mitigation measures for each of the affected species;

(v) A consideration of potential sites for mitigation measures for each of the affected species;

(vi) The identification and detailed description of the mitigation actions that will be undertaken by the Permittee to achieve a net conservation benefit to the affected species, including, if applicable, payment of a required mitigation fee into the Endangered and Threatened Species Mitigation Fund established pursuant to section 99(hh) of the New York State Finance Law; and

(vii) To the extent that physical mitigation will be performed, a letter or other indication of the Permittee's financial and technical capability and commitment to fund and execute such management, maintenance, and monitoring for the life of the facility/term of the siting permit.

(2) **[INTENTIONALLY OMITTED] (Addressed below (3))**

(i) **[INTENTIONALLY OMITTED]**

(3) For facilities that will have more than a de minimis impact on NYS threatened or endangered grassland birds, the Permittee shall implement the following as part of the NCBP:

(i) The Permittee shall implement environmental monitoring immediately prior to and during construction in the occupied habitat to search for NYS threatened or endangered species occurrence based on the species' seasonal windows for presence.

(ii) If active nests of the NYS threatened or endangered species are found within the occupied habitat, then the Permittee shall coordinate with the NYSDPS and the Office to adjust the limits of disturbance and/or adjust the construction schedule to avoid work in the area until nesting has been completed.

(iii) To avoid direct impacts to NYS threatened or endangered grassland bird species, the following work windows apply for all ground disturbance and construction-related activities, including restoration and equipment/component staging, storage, and transportation, within occupied habitat:

a. In NYS threatened or endangered grassland bird occupied breeding habitat, work shall be conducted only between August 16 and April 22;

b. In NYS threatened or endangered grassland bird occupied wintering habitat, work shall be conducted only between April 1 and November 14;

c. In areas of the facility where both breeding and wintering occupied habitat occurs, work shall be conducted only between August 16 and November 14, and between April 1 and 22.

(iv) If fields within identified occupied breeding habitat are planted with row crops (e.g., corn, beans, or vegetables) in the farming season prior to the commencement of facility construction and such fields were historically used for row crops during at least one of the prior five (5) years, these

fields will not be subject to the construction timing restrictions set forth in subparagraphs (iii)(a) and (c) of this paragraph.

(v) If the Permittee has identified construction activities that must occur between November 15 and March 31 in identified NYS threatened or endangered grassland bird occupied wintering habitat, or between April 23 and August 15 in identified NYS threatened or endangered grassland bird occupied breeding habitat outside of row crop areas described above, the occupied habitat area(s) proposed for active construction shall be assessed by an on-site environmental monitor or biologist who shall conduct surveys for NYS threatened or endangered grassland bird species. The surveys shall occur weekly until construction activities have been completed in the occupied habitat area, unless otherwise agreed to by the Office. If no NYS threatened or endangered grassland bird species are detected during the survey, the area shall be considered clear for seven (7) days, when another survey shall be performed. If NYS threatened or endangered grassland bird species are detected, the Permittee shall comply with subdivision (o)(7) of this section.

(vi) All temporary disturbance or modification of established grassland vegetation communities that occurs as a result of facility construction, restoration, or maintenance activities shall be restored utilizing a native herbaceous seed mix or the pre-existing grassland vegetative conditions by re-grading and re-seeding with an appropriate native seed mix after disturbance activities are completed, unless returning to agricultural production or otherwise specified by the landowner. These temporarily disturbed or modified areas include all areas within the facility site that do not have impervious cover, such as temporary roads, material and equipment staging and storage areas, and electric line rights of way.

(vii) The Permittee shall implement the avoidance and minimization measures identified in 16 NYCRR § 1100-2.13 and the other conditions herein to minimize potential take of the species.

(viii) To the extent that the Office has determined that the

facility would result in impacts to grassland bird occupied habitat requiring mitigation, the Permittee shall pay the required mitigation fee commensurate with the actual acreage of occupied habitat taken into the Endangered and Threatened Species Mitigation Bank Fund with the sole purpose to conserve habitat of similar or higher quality or otherwise achieve a net conservation benefit to the impacted species.

(ix) If the Permittee proposes an NCBP involving Permittee-implemented grassland bird habitat conservation in lieu of payment of a mitigation fee pursuant to subparagraph (viii) of this paragraph, the required mitigation ratio shall be 0.4 acres of mitigation for every acre of occupied grassland bird breeding habitat determined to be taken and 0.2 acres of mitigation for every acre of occupied grassland bird wintering habitat determined to be taken. These mitigation requirements are based upon multiplying impacts by the ratios described above and dividing impacts by five lifecycles of habitat succession (e.g., a 30-year mitigation project term and 5-year timeframe in which unmanaged grassland would naturally succeed into scrub/shrub habitat, minus one lifecycle to provide a net conservation benefit).

(4) For facilities that will impact NYS threatened or endangered bat species, the Permittee shall implement the following as part of the NCBP:

(i) No facility component shall be sited or located within one hundred fifty (150) feet of any known northern long-eared bat maternity roost, within five hundred (500) feet of any known Indiana bat maternity roost, or one quarter (0.25) mile of any known northern long-eared bat or Indiana bat hibernaculum.

(ii) If at any time during the life of the facility, an active NYS threatened or endangered bat species maternity colony roost tree (or structure) is discovered within the facility site, the NYSDPS and the Office shall be notified within twenty-four (24) hours of discovery (during construction) and forty-eight (48) hours of discovery (during operation), and the colony site shall be marked. A five hundred (500)-foot radius around the colony shall be posted and avoided until notice to

continue construction, ground clearing, grading, non-emergency maintenance or restoration activities, as applicable, at that site is granted by the NYSDPS or the Office. A re-evaluation of the potential impacts of the Project on listed bat species shall be provided to the NYSDPS and Office.

(iii) Tree Clearing Limitations for Northern Long-eared Bats:

a. No tree clearing activities shall occur at any time within one hundred fifty (150) feet of any known maternity roost or one quarter (0.25) mile of any known hibernaculum.

b. All tree clearing activities (except for hazard tree removal to protect human life or property) occurring within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between November 1 and March 31) without further restrictions unless otherwise approved by the Office. This limitation does not include trees less than or equal to four (4) inches in diameter at breast height (DBH).

c. From April 1 to October 31, the following restrictions shall be implemented for all tree clearing activities in the facility site, unless otherwise agreed by the Office:

1. The Permittee shall leave uncut all snag and cavity trees, as defined under the NYSDEC Program Policy ONRDLF-2 Retention on State Forests, unless their removal is necessary for protection of human life and property. This restriction pertains to trees that are greater than or equal to four (4) inches DBH. When necessary, snag or cavity trees may be removed after being cleared by an environmental monitor who shall conduct a survey for bats exiting the tree. This survey shall begin thirty (30) minutes before sunset and continue until at least one (1) hour after sunset or until it is otherwise

too dark to see emerging bats. Unoccupied snag and cavity trees in the approved clearing area shall be removed within forty-eight (48) hours of observation.

2. If any bats are observed flying from a tree, or from a tree that has been cut, tree clearing activities within distances required in clause (a) of this subparagraph, depending on the potential species present, shall be suspended and the NYSDPS and the Office shall be notified as soon as possible. The Permittee shall have an environmental monitor present on site during all tree clearing activities. If any bat activity is noted, a stop work order will immediately be issued and shall remain in place until such time as the NYSDPS and the Office have been consulted and authorize resumption of work.

(iv) **[INTENTIONALLY OMITTED] (The resource (Indiana bats) is not present at this Facility)**

a. **[INTENTIONALLY OMITTED]**

b. **[INTENTIONALLY OMITTED]**

c. **[INTENTIONALLY OMITTED]**

d. **[INTENTIONALLY OMITTED]**

(v) To minimize impacts to bats from wind facilities, the Permittee shall comply with the following requirements:

a. Curtailment is required for all wind facilities from July 1 – October 1 when wind speeds are at or below five and a half (5.5) m/s and temperatures are at or above ten (10) degrees Celsius (fifty (50) degrees Fahrenheit) from thirty (30) minutes before sunset to thirty (30) minutes after sunrise. Curtailment shall be on an individual turbine basis and shall be determined by weather conditions as measured by each individual weather station on the turbine nacelle.

b. The Permittee shall submit a review of curtailment operations to the Office as part of the post-construction bat mortality monitoring requirements set forth in the NCBP or every five (5) years (or sooner if requested by the Permittee). The review shall assess if changes in technology or knowledge of impacts to bats supports modification of the existing curtailment regime. Modifications to the existing curtailment regime that further decrease mortality may be proposed or negotiated. Any such modifications shall not be costlier than the existing curtailment regime, unless voluntarily supported by the Permittee.

(5) For each applicable NCBP, the Permittee shall pay the required mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund commensurate with the anticipated number of individuals taken with the sole purpose to achieve a net conservation benefit to the impacted species.

(6) To avoid and minimize impacts to bald eagles, the Permittee shall implement the following:

(i) If, at any time during construction and operation of the facility, an active bald eagle nest or roost is identified within the facility site, the NYSDPS and the Office shall be notified within forty-eight (48) hours of discovery and prior to any disturbance of the nest or immediate area. An area one quarter (0.25) mile for nests without a visual buffer and six hundred sixty (660) feet in radius for nests with a visual buffer from the nest tree shall be posted and avoided to the maximum extent practicable until notice to continue construction at that site is granted by the NYSDPS and the Office.

(ii) Tree removal is not allowed:

a. Within six hundred sixty (660) feet from an active nest during breeding season (January 1 – September 30);

b. Within one quarter (0.25) mile from an important winter roost during the wintering period (December 1 – March

31); or

c. Of overstory trees within three hundred thirty (330) feet of an active nest at any time.

(iii) Operational Impacts from Wind Facilities. If at any time during the operation of the facility a bald eagle is injured or killed due to collision with project components, the Permittee shall pay the required mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund commensurate with number of eagles taken with the sole purpose to achieve a net conservation benefit to the impacted species.

(7) *Record All Observations of NYS Threatened or Endangered Species*. During construction and restoration of the facility and associated facilities, the Permittee shall maintain a record of all observations of NYS threatened or endangered species as follows:

(i) *Construction*. During construction, the on-site environmental monitor shall be responsible for recording all occurrences of NYS threatened or endangered species within the facility site. All occurrences shall be reported in a biweekly monitoring report submitted to the NYSDPS, with a copy to the Office, and such reports shall include the information described in subparagraph (iii) of this paragraph. If a NYS threatened or endangered bird species is demonstrating breeding behavior, it shall be reported to the NYSDPS and the Office within forty-eight (48) hours.

(ii) *Restoration.* After construction is complete, incidental observations of any NYS threatened or endangered species shall be documented and reported to the NYSDPS, with a copy to the Office, in accordance with the reporting requirements in subparagraph (iii) of this paragraph.

(iii) *Reporting Requirements*. All reports of NYS threatened or endangered species shall include the following information: species; number of individuals; age and sex of individuals (if known); observation date(s) and time(s); Global Positioning System (GPS) coordinates of each individual observed (if operation and maintenance staff do not have GPS available, the report shall include the nearest turbine

number and cross roads location); behavior(s) observed; identification and contact information of the observer(s); and the nature of and distance to any facility construction, maintenance or restoration activity.

(8) *Discovery of Nests or Dead or Injured NYS Threatened or Endangered Bird Species.*

(i) Excluding Bald Eagles, if an active nest of a federal or NYS threatened or endangered bird species is discovered (by the Permittee's environmental monitor or other designated agents) within the facility site, the following actions shall be taken:

a. The NYSDPS and the Office shall be notified within forty-eight (48) hours of discovery and prior to any further disturbance around the nest, roost, or area where the species were seen exhibiting any breeding or roosting behavior;

b. An area at least five hundred (500) feet in radius around the active nest shall be posted and avoided until notice to continue construction, ground clearing, grading, maintenance, or restoration activities are granted by the Office; and

c. The active nest(s) or nest tree(s) shall not be approached under any circumstances unless authorized by the Office.

(ii) If any dead or injured federal or NYS threatened or endangered bird species, or eggs or nests thereof, are discovered by the Permittee's on-site environmental monitor or other designated agent at any time during the life of the facility, the Permittee shall immediately (within 24 hours) contact the NYSDEC and the United States Fish and Wildlife Service (USFWS) for federally-listed species, to arrange for recovery and transfer of the specimen(s). The NYSDPS and the Office shall also be notified. The following information pertaining to the find shall be recorded:

a. Species;

b. Age and sex of the individual(s), if known;

c. Date of discovery of the animal or nest;

d. Condition of the carcass, or state of the nest or live animal;

e. GPS coordinates of the location(s) of discovery;

f. Name(s) and contact information of the person(s) involved with the incident(s) and find(s);

g. Weather conditions at the facility site for the previous forty-eight (48) hours;

h. Photographs, including scale and of sufficient quality to allow for later identification of the animal or nest; and

i. An explanation of how the mortality/injury/damage occurred, if known.

Electronic copies of each record, including photographs, shall be kept with the container holding the specimen(s) and given to the NYSDEC or the USFWS at the time of transfer. If the discovery is followed by a non-business day, the Permittee shall ensure all the information listed above is properly documented and stored with the specimen(s). Unless otherwise directed by the NYSDEC or the USFWS, after all information has been collected in the field, the fatality specimen(s) shall be placed in a freezer, or in a cooler on ice until transported to a freezer, until it can be retrieved by the proper authorities.

(9) The provisions of subdivision (o) of this section shall remain in effect for as long as the relevant species is listed as endangered or threatened in New York State.

(p) ***Wetlands, Waterbodies, and Streams.*** The Permittee shall implement the following procedures for construction within wetlands and adjacent areas subject to ECL Article 24, and waterbodies and streams regulated

pursuant to ECL Article 15 (as identified in the delineations approved by the Office pursuant to 19 NYCRR §§ 1100-1.3(e) and (f)):

(1) *Environmentally Sensitive Area (ESA) Flagging*. Prior to performing construction in an ESA, defined herein as any NYS-regulated wetlands, waterbodies, or streams, and associated adjacent areas identified in the delineations approved by the Office pursuant to 16 NYCRR §§ 1100-1.3(e) and (f), the Permittee shall mark the boundaries of the ESA with colored flagging, "protected area" signs, or erosion and sediment control measures specified by the SWPPP. As necessary to prevent access by motorized vehicles into ESAs where no construction is planned, the Permittee shall install additional markers or signs stating, "No Equipment Access".

(2) *Equipment Maintenance and Refueling*. Equipment storage, refueling, maintenance, and repair shall be conducted and safely contained more than one hundred (100) feet from all wetlands, waterbodies, and streams and stored at the end of each workday unless moving the equipment will cause additional environmental impact. Dewatering pumps operating within one hundred (100) feet of wetlands, waterbodies, or streams may be refueled in place and shall be within a secondary containment large enough to hold the pump and accommodate refueling. All mobile equipment, excluding dewatering pumps, shall be fueled in a location at least one hundred (100) feet from wetlands, waterbodies and streams unless moving the equipment will cause additional environmental impact.

(3) *Fuel Storage*. Fuel or other chemical storage containers shall be appropriately contained and located at least three hundred (300) feet from wetlands, waterbodies, and streams.

(4) *Clean Fill*. All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, fly ash, demolition debris, broken concrete, garbage, household refuse, tires, woody materials, and metal objects. Reasonable efforts shall be made to use fill materials that are visually free of invasive species based on onsite and source inspections. The introduction of materials toxic to aquatic life is expressly prohibited.

(5) *Turbid Water*. Turbid water resulting from dewatering operations shall not be allowed to enter any wetland, waterbody, or stream.

Water resulting from dewatering operations shall be discharged directly to settling basins, filter bags, or other approved device. All necessary measures shall be implemented to prevent any substantial visible contrast due to turbidity or sedimentation downstream of the work site.

(6) *Truck Washing*. Washing of trucks and equipment shall occur one hundred (100) feet or more from an ESA, and waste concrete and water from such activities shall be controlled to avoid it flowing into a wetland or adjacent area, waterbody, or stream. If runoff from such activities flows into any wetlands and adjacent areas subject to ECL Article 24, or waterbodies and streams regulated pursuant to ECL Article 15, the NYSDEC Regional Supervisor of Natural Resources shall be contacted within two (2) hours.

(7) *Concrete Washouts*. Concrete washouts and batch plants, or concrete from truck cleanout activity, any wash water from trucks, equipment, or tools, if done on site, shall be located and installed to minimize impacts to water resources. Locations should be at least one hundred (100) feet from any wetland, waterbody, or stream, and located outside wetland adjacent areas to the maximum extent practicable. Disposal of waste concrete or wash water shall be at least one hundred (100) feet from any wetland, waterbody, or stream.

(8) *Use of Horizontal Directional Drilling*. Installation of underground collection lines across wetlands, waterbodies and streams shall be performed via HDD to the maximum extent practicable.

(9) *Trenching*. Open cut trenching in wetlands, waterbodies and streams shall be conducted in one continuous operation and shall not exceed the length that can be completed in one (1) day.

(10) *Inadvertent Return Flows*. HDD under wetlands, waterbodies and streams shall be performed in accordance with the inadvertent return flow plan required pursuant to 16 NYCRR § 1100-10.2(f)(5).

(11) *Discharge Notice and Response*. The Permittee shall notify the NYSDEC, the Office and the NYSDPS within two (2) hours if there is a discharge to an area regulated under Articles 15 or 24 of the ECL resulting in a violation of New York Water Quality Standards

at 6 NYCRR Part 703. The Permittee shall immediately stop work until authorized to proceed by the Office.

(q) ***Wetlands.*** The Permittee shall implement the following requirements for freshwater wetlands and adjacent areas subject to ECL Article 24:

(1) *Construction in Wetlands and Adjacent Areas.* All construction activities completed within wetlands and/or adjacent areas shall adhere to the following requirements:

(i) **[INTENTIONALLY OMITTED] (The resource (breeding amphibians) is not present at this Facility)**

(ii) Work should be conducted during dry conditions without standing water or when the ground is frozen, where practicable.

(iii) Excavation, installation, and backfilling in wetlands shall be performed in one continuous operation.

(iv) Temporary construction matting shall be used as necessary to minimize disturbance to the wetland soil profile during all construction and maintenance activities. All temporary construction matting shall be removed as soon as practicable but no later than four months following installation from the wetland and cleaned of any invasive species (seed, plant materials, insects, etc.) after construction/maintenance activities are completed and removal shall be verified with the on-site environmental monitor after construction. Matting shall be removed by equipment stationed on a mat or areas outside the wetland or adjacent area.

(v) In the event that construction results in an unanticipated alteration to the hydrology of a wetland (i.e., lowering), the breach shall be immediately sealed, and no further activity shall take place until the NYSDPS and the Office are notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved.

(vi) Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of possible turbid trench water from entering the wetland.

(vii) Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent wetland draining during construction.

(viii) In wetland areas, the topsoil shall be removed and stored separate from subsoil. The top twelve (12) inches of wetland topsoil shall be removed first and temporarily placed onto a geo-textile blanket.

(ix) Only the excavated wetland topsoil and subsoil shall be utilized as backfill, with the exception of clean bedding material for electrical collection lines and/or conduits, provided there is no change to the pre-construction contours upon restoration; and trench-breakers are used to prevent draining the wetland.

(x) Subsoil dug from the trench shall be sidecast on the opposite side of the trench on another geo-textile blanket running parallel to the trench, if necessary.

(xi) Trenches shall be backfilled with the wetland subsoil and the wetland topsoil shall be placed back on top. All excess materials shall be completely removed to upland areas more than one hundred (100) feet from the wetland and suitably stabilized.

(xii) When backfilling occurs, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth as prior to disturbance.

(xiii) All disturbed soils within wetlands and adjacent areas shall be seeded with an appropriate native wetland seed mix, shrubs, live stakes, or tree planting as site conditions and design allow, as appropriate for existing land uses. Straw mulch shall be maintained until the disturbed area is permanently stabilized. Hay shall not be used for mulching of wetlands or adjacent areas.

(xiv) In agricultural or farmed wetlands, crop covers consistent with existing agricultural uses shall be utilized in all areas of soil disturbance.

(xv) Installation of underground collection lines in wetlands shall be performed using the following methods:

a. The Permittee shall implement best management practices to minimize soil compaction;

b. During excavation, all topsoil shall be stripped and segregated from subsoils. The Permittee shall consolidate trenching areas to the maximum extent practicable to minimize impacts to agricultural soils;

c. All reasonable efforts shall be made to backfill open trenches within the same workday if rain is predicted and as soon as practicable otherwise; and

d. All excess materials shall be completely removed from wetlands to upland areas. Excess topsoil from agricultural areas shall be spread within the immediate agricultural areas within the approved LOD, or within other nearby areas that will still be used for agricultural production.

(2) *Wetland Restoration*.

(i) Wetland restoration shall be completed according to the approved Wetland Restoration and Mitigation Plan submitted pursuant to 16 NYCRR § 1100-10.2(f)(2).

(ii) The Permittee shall restore disturbed areas, ruts, and rills within NYSDEC-regulated wetlands and adjacent areas to original grades and conditions with permanent native re-vegetation and erosion controls appropriate for those locations.

(iii) Restoration of temporary impacts to NYS-regulated wetlands and adjacent areas (as delineated pursuant to 16 NYCRR § 1100-1.3(e)) to pre-construction contours shall be completed within forty-eight (48) hours of final backfilling of the trench/excavated areas and restored to pre-construction contours as soon as practicable.

(iv) Immediately upon completion of grading, and as consistent

with existing land use/land cover, the area shall be seeded with an appropriate native species mix for wetlands and upland areas adjacent to wetlands, except that adjacent areas may be reseeded differently at the request of the landowner.

(v) The Permittee shall attain eighty (80) percent vegetative cover across all disturbed soil areas by the end of the first full growing season following construction. Overall vegetative cover in restored areas shall be monitored for a minimum of five (5) years. Post-construction monitoring shall continue until an eighty (80) percent survivorship of native woody species or eighty-five (85) percent absolute cover of native herbaceous species appropriate wetland indicator status has been reestablished over all portions of the replanted area, unless the invasive species baseline survey indicates a smaller percentage of survivorship or cover of appropriate native species exists prior to construction.

(3) *Cut Vegetation*. Cut vegetation in wetlands, with the exception of invasive species, may be left in place (i.e., drop and lop or piled in dry or seasonally saturated portions of wetlands and adjacent areas to create wildlife brush piles).

(4) *Access Roads Through Wetlands*. Installation of access roads through wetlands shall be performed using the following methods:

(i) Temporary access roads shall use timber/construction matting that is completely removed after construction/maintenance activities are completed and removal shall be verified with the NYSDPS by the on-site environmental monitor after construction, or by the facility operator after maintenance work is completed.

(ii) Permanent access roads shall use a layer of geotextile fabric and a minimum of six (6) inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed. Access roads shall be designed and constructed to adequately support the type and frequency of the anticipated vehicular traffic and include suitable culverting or other drainage infrastructure as needed to minimize the impact to wetland hydrology.

(5) **[INTENTIONALLY OMITTED] (Solar)**

(6) *Tree Clearing*. Tree clearing shall be minimized to the extent practicable in wetlands and adjacent areas.

(7) *Fill Placement*. The placement of fill in wetlands shall be designed to maintain pre-construction surface water flows/conditions between remaining on- or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Construction activity and final design shall not restrict or impede the passage of normal or expected high flows.

(8) *Concrete Use*. For activities involving the placement of concrete into regulated wetlands, watertight forms shall be used. The forms shall be dewatered prior to the placement of the concrete. The use of tremie-supplied concrete is allowed if it complies with NYS water quality standards.

(9) *Stormwater Setback*. Any new stormwater management infrastructure shall be located outside of the wetland and adjacent area to the extent practicable.

(10) *Mitigation*. The Permittee shall implement the approved Wetland Restoration and Mitigation Plan submitted pursuant to 16 NYCRR § 1100-10.2(f)(2).

(r) *Work in NYS-protected waters*. The Permittee shall implement the following:

(1) *Dry Conditions*. In-stream work shall only occur in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area. Any waters accumulated in isolated work areas shall be discharged to an upland settling basin, field, or wooded area to provide for settling and filtering of solids and sediment before water is returned to the stream. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.

(2) *In-Water Work Windows*. In-stream work shall be prohibited from September 15 through May 31 in cold water fisheries and March 15

through July 15 in warm water fisheries unless the Permittee receives site specific approval from the Office.

(3) *Stream Channels*. The restored stream channel shall be equal in width, depth, gradient, length and character to the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. The planform of any permanent stream shall not be changed, unless dictated by restoration or mitigation objectives. All disturbed stream banks shall be mulched within two (2) days of final grading, stabilized with one hundred (100) percent natural or biodegradable fiber matting, and seeded with an appropriate riparian seed mix.

(4) *Felled Trees in an ESA*. Trees shall not be felled into an ESA stream or its stream bank. Snags which provide shelter in streams for fish shall not be disturbed unless they cause serious obstructions, scouring or erosion.

(5) *Culvert Repairs*. If a culvert is blocked or crushed, or otherwise damaged by construction or maintenance activities, the Permittee shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage, embedment, and aquatic connectivity.

(6) *Access Road Crossings of Streams*. The creation, modification, or improvement of any permanent road crossing of a NYS-protected waterbody shall meet the following requirements:

(i) New culvert pipes that the Permittee is required to install shall be designed to safely pass the one (1) percent annual chance storm event;

(ii) Culvert pipes shall be embedded beneath the existing grade of the stream channel;

(iii) Width of the structure shall be a minimum of one and a quarter (1.25) times the width of the mean high-water channel, as practicable; and

(iv) The culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than three (3) percent, an open bottom culvert shall be used.

(7) *Overhead Lines Across NYSDEC-Protected Streams*. If construction of overhead power line crossings requires cutting of trees or shrubs within fifty (50) feet of a NYS-protected waterbody:

(i) Cut materials shall be left on the ground; and

(ii) Stumps and root systems shall not be damaged to facilitate stump sprouting.

(8) *Stream Flows*. During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly.

(9) *No Aquatic Impediments*. In-stream work, including the installation of structures and bed material, but excluding dewatering associated with dry trench crossings, shall not result in an impediment to aquatic organisms. All fish trapped within cofferdams shall be netted and returned, alive and unharmed, to the water outside the confines of the cofferdam, in the same stream.

(10) *Drop Height*. Any in-stream structures placed in a stream shall not create a drop height greater than six (6) inches.

(11) *Restoration and Mitigation*. The Permittee shall implement the approved Stream Restoration and Mitigation Plan submitted pursuant to 16 NYCRR § 1100-10.2(f)(3).

(s) *Agricultural Resources.*

(1) **[INTENTIONALLY OMITTED] (Solar)**

(2) In all instances in which the applicant for a wind facility proposes to permanently or temporarily impact active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4, the Permittee shall:

(i) Construct the facility consistent with the NYSAGM "Guidelines for Agricultural Mitigation for Wind Power Projects," revised 4/19/2018 (see 16 NYCRR § 1100-15.1(l)(1)(ii)), to the maximum extent practicable; and

(ii) Hire an independent, third-party agricultural monitor to oversee compliance with agricultural conditions and requirements, including the approved Agricultural Plan required pursuant to 16 NYCRR § 1100-2.16(c) and the approved Remediation Plan required pursuant to 16 NYCRR § 1100-2.16(d). The Office, in consultation with the NYSAGM, shall verify and approve the qualifications required to fulfill the role of the agricultural monitor have been met. If the Office, in consultation with the NYSAGM, agrees that the independent third-party monitor is qualified on agricultural issues, one monitor can act as both the general environmental monitor as well as the agricultural-specific environmental monitor.

(t) ***Hazardous Materials.*** The Permittee shall comply with the NYSDEC-approved Site Management Plan for the facility site, or any portion thereof, if applicable.

(u) ***Cultural Resources Avoidance, Minimization and Mitigation Plan.*** The Permittee shall implement the approved Cultural Resources Avoidance, Minimization and Mitigation Plan required in 16 NYCRR § 1100-10.2(g).

4.5. Facility Operation (16 NYCRR § 1100-6.5):

(a) ***Noise Limits for Wind Facilities***

(1) Noise levels by all noise sources from the wind facility(ies) shall:

(i) Comply with a maximum noise limit of forty-five (45) dBA Leq (8-hour) at the outside of any non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any participating residence existing as of the issuance date of the siting permit;

(ii) Prominent tones are defined by using the constant level differences listed under ANSI/ASA S12.9-2005/Part 4 Annex C (sounds with tonal content) (see 16 NYCRR § 1100-

15.1(a)(1)(iii)) at the outside of any non-participating residence existing as of the issuance date of the siting permit. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by five (5) dBA for evaluation of compliance with subparagraphs (i) and (v) of this paragraph;

(iii) Comply with a maximum noise limit of sixty-five (65) dB Leq (1-hour) at the full octave frequency bands of sixteen (16), thirty-one and a half (31.5), and sixty-three (63) Hertz outside of any non-participating residence existing as of the issuance date of the siting permit, in accordance with Annex D of ANSI/ASA standard S12.9-2005/Part 4 Section D.2.(1) (Analysis of sounds with strong low-frequency content) (see 16 NYCRR § 1100-15.1(a)(1)(iii));

(iv) Not produce human perceptible vibrations inside any non-participating residence existing as of the issuance date of the siting permit that exceed the limits for residential use recommended in ANSI/ASA Standard S2.71-1983 "Guide to the evaluation of human exposure to vibration in buildings" (see 16 NYCRR § 1100-15.1(a)(1)(i));

(v) Comply with a noise limit of forty (40) dBA Leq (1-hour) at the outside of any non-participating residence existing as of the issuance date of the siting permit from the collector substation equipment; and

(vi) Emergency situations are exempt from the limits specified in this subdivision.

(2) *Post-Construction Noise Compliance and Monitoring for Wind Facilities.* To evaluate compliance with noise-related conditions, the Permittee shall comply with the following requirements:

(i) Compliance with subparagraphs (1)(i)-(v) of this section for the facility shall be evaluated by the Permittee by implementing a sound testing compliance protocol that shall follow the provisions and procedures for post-construction noise performance evaluations approved by the Office and stated in the siting permit;

(ii) At least two sound compliance tests conforming to the sound testing compliance protocol shall be performed by the Permittee after the commercial operation date of the facility: one during the "leaf-off" season and one during the "leaf-on" season;

(iii) Within seven (7) months after the commercial operation date of the facility, the Permittee shall perform and complete the first sound compliance test and the results shall be submitted by filing a report from an independent acoustical or noise consultant, no later than eight (8) months after the commercial operation date, specifying whether or not the facility is found in compliance with all siting permit conditions on noise during the "leaf on" or "leaf off" season as applicable; and

(iv) The second sound compliance test shall be performed, and results shall be submitted subject to the same provisions contained in subparagraph (iii) of this paragraph, but no later than thirteen (13) months after the commencement of commercial operation of the facility.

(3) *Noise Exceedances from Wind Facilities*. If the results of the first or second post-construction sound compliance test, or any subsequent test, or any compliance or violation test, indicate that the facility does not comply with siting permit conditions on noise and vibration, the Permittee shall:

(i) Present minimization options to the NYSDPS, with a copy to the Office, within sixty (60) days after the filing of a non-compliance test result or the finding of a noncompliance or a violation of siting permit conditions on noise, as follows:

a. Operational minimization options related to noise or vibrations caused by the wind turbines that shall be considered, including, at a minimum, modifying or reducing times or duration of turbine operation, incorporating noise reduced operations, shutting down relevant turbines, and modifying operational conditions of the turbines;

b. Physical minimization options related to noise or

vibration caused by the wind turbines that shall be considered, including installation of serrated edge trails on the turbine blades, replacement, or maintenance of noisy components of the equipment, and any other measures as feasible and appropriate; and

c. If applicable, any minimization measures related to noise from transformers (such as walls or barriers), emergency generators (such as installation of noise walls or barriers, adding or replacing enclosures or silencers to the emergency generator), or any other noise sources (such as HVAC equipment or energy storage systems), shall be considered, as well as any other mitigation measures as feasible and appropriate.

(ii) Upon approval from the NYSDPS and the Office, the Permittee shall implement any operational noise or vibration mitigation measures within ninety (90) days after the finding of a non-compliance or siting permit violation, as necessary to achieve compliance.

(iii) Upon approval from the NYSDPS and the Office, the Permittee shall implement any physical noise or vibration mitigation measures within one hundred fifty (150) days after the finding of a non-compliance or siting permit violation, as necessary to achieve compliance.

(iv) If the Permittee cannot meet the timelines for implementation of mitigation measures set forth in subparagraphs (ii) and (iii) of this paragraph, the Permittee shall cease operation of the turbines of the facility that caused the non-compliance or siting permit violation until the operational or physical minimization measures that are presented and approved by the NYSDPS and the Office have been implemented. Once implemented, the Permittee shall not operate the facility without the mitigation measures presented and approved by the NYSDPS and the Office.

(v) Test, document and present results of any minimization measures and compliance with all siting permit conditions on noise, no later than ninety (90) days after the minimization measures are implemented.

(4) *Noise and Vibration Complaints from Wind Facilities.* The Permittee shall adhere to the following conditions regarding noise complaints:

(i) The Permittee is required to maintain a log of complaints received relating to noise and vibrations caused by the operation of the facility. The log shall include name and contact information of the person that lodges the complaint, name of the property owner(s), address of the residence where the complaint was originated, the date and time of the day underlying the event complained of, and a summary of the complaint.

(ii) The Permittee shall provide the host municipalities with a phone number, email address, and mailing address where complaints can be notified.

(iii) All complaints received shall be reported to the NYSDPS staff, with a copy to the Office, monthly during the first year of commercial operations and quarterly thereafter, by filing during the first ten (10) days of each month (or the first ten (10) days of each quarter after the first year). Reports shall include copies of the complaints and, if available, a description of the probable cause (e.g., outdoor or indoor noise, tones, low frequency noise, amplitude modulation, vibrations, rumbles, rattles, etc., if known); the status of the investigation, summary of findings and whether the facility has been tested and found in compliance with applicable siting permit conditions on noise or minimization measures have been implemented. If no noise or vibration complaints are received, the Permittee shall submit a letter indicating that no complaints were received during the reporting period.

(iv) Should complaints related to excessive and persistent amplitude modulation occur at any non-participating residence existing as of the issuance date of the siting permit, with measured or modeled sound levels exceeding forty (40) dBA Leq (1-hour), the Permittee shall investigate and measure amplitude modulation at the affected receptors during the time frame when the worst conditions are known, or, if not

known, expected to occur. If the L90-10-minute noise levels (dBA), including any amplitude modulation and prominent tone penalties exceed a noise level of forty-five (45) dBA and amplitude modulation is in excess of a five (5) dB modulation depth at the evaluated receptor(s) for more than five (5) percent of the time during the identified time frame of evaluation (which shall not exceed eight consecutive hours), the Permittee shall continue with the investigation, identify frequency of occurrence and the conditions that may be favorable for its occurrence, and propose minimization measures to avoid or minimize the impacts. Minimization measures that avoid, minimize, resolve, or mitigate the amplitude modulation impacts shall be identified and reported by filing the identified minimization measures and implementing such measures after, and consistent with, review and approval. Compliance with this requirement shall be finally demonstrated by conducting a test that shows that the L90-10-minute sound levels (dBA), including a five (5)-dBA penalty for amplitude modulation (if amplitude modulation depth is in excess of five (5) dB for more than five (5) percent of the time in any eight (8) consecutive hours) at that particular location and any additional prominent tone penalties, are lower than or equal to forty-five (45) dBA. For any complaints that do not exceed the limits established in the foregoing, the Permittee shall handle those complaints under the complaint resolution protocol approved by the Office. Amplitude Modulation depth will be evaluated as indicated in the document entitled "A Method for Rating Amplitude Modulation in Wind Turbine Noise," 09 August 2016, Version 1 (see 16 NYCRR § 1100-15.1(c)(1)(i)).

(v) The Permittee shall investigate all other noise and vibration complaints by following the complaint resolution protocol approved by the Office, and consistent with the limits imposed by the siting permit.

(5) *Facility Logs for Wind Facilities.* The Permittee is required to maintain a log of operational conditions of all the turbines with a ten (10)-minute time interval to include, at a minimum, wind velocity and wind direction at the hub heights, angular speed of the rotors, generated power, and notes indicating operational conditions that could affect the noise levels (e.g., maintenance,

shutdown, etc.). A schedule and log of noise-reduced operations for individual turbines shall also be kept and updated as necessary. These records shall be maintained by the Permittee for five (5) years from occurrence.

(b) [INTENTIONALLY OMITTED] (Solar)

(c) ***Operational Compliance.*** The Permittee shall operate the facility to abide by applicable rules and regulations of the PSL and 16 NYCRR with respect to matters such as enforcement, investigation, safety, and reliability. The Permittee shall abide by standard Good Utility Practice, and abide by all rules, guidelines and standards of the serving utilities, the New York Independent System Operator (NYISO), the Northeast Power Coordinating Council (NPCC), the New York State Reliability Council (NYSRC), the North American Electric Reliability Corporation (NERC) and successors. When applied to the Permittee, the term "Good Utility Practice" shall mean the standards applicable to an independent power producer connecting to the distribution or transmission facilities or system of a utility.

(d) ***Annual Inspection.*** The Permittee shall have an annual inspection program for its facilities. An annual inspection report shall summarize maintenance and inspection activities performed and include details of any repairs undertaken. Reports shall identify any major damage, defects, or other problems, or indicate that no such damage, defect or problem was found. Reports shall be made readily available upon request by the NYSDPS or the Office.

(e) ***Equipment Replacement.*** Replacement of major facility components with different make, model, size, or other material modification, shall be subject to review and approval of the Office pursuant to 16 NYCRR § 1100-11.1.

(f) ***Interconnection Changes.*** Throughout the life of the facility, the Permittee shall provide a copy of the following interconnection documents to the secretary of the NYSDPS, with a copy to the Office:

(1) Any updates or revisions to the Interconnection Agreement or Facility Agreements between the Permittee, the serving utilities and NYISO; and

(2) Any System Reliability Impact Study (SRIS) required as part of a

future facility modification or uprate, performed in accordance with the NYISO Open Access Transmission Tariff (OATT), available at www.nyiso.com.

(g) ***Facility Transmission Interconnection Related Incidents***.

(1) The Permittee shall contact the NYSDPS Emergency Line within one (1) hour to report any transmission related incident on its owned and operated interconnection facilities which affects the operation of the facility, or that poses a public safety concern, and shall provide notification to the Office within twenty-four (24) hours.

(2) The Permittee shall file with the secretary of the NYSDPS a report on any such incident, upon request within seven (7) days, and provide a copy of the report to the serving utility and the Office. The report shall contain, when available, copies of applicable drawings, descriptions of the equipment involved, a description of the incident and a discussion of how future occurrences will be prevented.

(h) ***Facility Malfunction***

(1) In the event of any catastrophic incident, including but not limited to blade failure, fire, tower collapse or other catastrophic event involving the facility and its associated equipment, the Permittee shall notify the Office and the NYSDPS no later than twelve (12) hours following such an event.

(2) In the event of a malfunction of the facility or facility components which causes a significant reduction in the capability of such facility to deliver power for an extended duration (i.e., expected to last longer than one (1) month), the Permittee shall promptly file with the NYSDPS, and provide to the serving utility and the Office, copies of all notices, filings, and other substantive written communications with the NYISO as to such reduction, any plans for making repairs to remedy the reduction, and the schedule for any such repairs.

4.6. Decommissioning (16 NYCRR § 1100-6.6):

(a) The Permittee shall implement the approved Decommissioning and Site

Restoration Plan as required by 16 NYCRR § 1100-2.24. The Permittee shall adhere to all state laws and regulations in effect at the time of decommissioning regarding the disposal and recycling of components.

(b) The financial security regarding decommissioning and site restoration activities shall be in the form of a letter of credit (LOC) or other financial assurance approved by the Office, and shall be established by the Permittee to be held by each City, Town, or Village hosting facility components. The total amount of the financial security created for the Cities, Towns, or Villages shall be equal to the net decommissioning and site restoration estimate; the net decommissioning and site restoration estimate is equal to the gross decommissioning and site restoration estimate (which is the overall decommissioning and site restoration estimate plus a fifteen (15) percent contingency cost) less the total projected salvage value of facility components; reference to salvage value data shall also be included in the Decommissioning and Site Restoration Plan required at 16 NYCRR § 1100-2.24. If the Permittee and the host municipalities cannot come to an agreement as to the appropriate amount of financial security to be provided, the Office shall make the final determination. The financial security shall remain active until the facility is fully decommissioned. The LOC shall be irrevocable and state on its face that it is expressly held by and for the sole benefit of the specific Town, City, or Village.

5. SITE SPECIFIC CONDITIONS

The Permittee shall comply with the following SSCs during construction and operation of the Facility over the life of this Permit. Specific conditions shall take precedence over other conditions of this Permit should there be a conflict.

(a) ***Final Plans, Profiles and Detail Drawings*** - Final Design Plan Set – Consistent with 16 NYCRR § 1100-10.2, the Permittee shall provide the Office a set of the Final Design Plans, Profiles, and Detail Drawings, including without limitation:

(1) The collection substation, and overhead lines and poles.

(2) Setback Requirements for Wind Turbine Towers - Turbine locations shall reflect all applicable Manufacturer-required setbacks as well as the setbacks required by 16 NYCRR § 1100-2.6(b), Table 1.

(b) ***Final Safety Response Plan*** – Consistent with 16 NYCRR §§ 1100-2.7(c) and 1100-10.2, the Permittee shall submit to the Office a Final Safety Response Plan. Such plan shall include, without limitation, a map showing all Facility access points along with the associated addresses and/or other geographic reference suitable for emergency response. A program shall be described that provides for emergency responder training prior to the start of construction activities and annually thereafter.

(c) ***Final Blasting Plan*** - Pursuant to 16 NYCRR § 1100-2.11 and consistent with 16 NYCRR § 1100-10.2, the Permittee shall provide a Final Blasting Plan. Such plan shall include, without limitation, a discussion of pertinent Uniform Standards and Conditions of this Permit, mapping delineating the proposed blast areas (including depiction of setbacks to sensitive resources), and a list of all applicable Federal, State, and Local laws. Permittee's plan shall also meet the minimum requirements of NYSDOT "Geotechnical Engineering Manual GEM-22".

(d) ***Phased Notice to Proceed (NTP)*** – Consistent with 16 NYCRR § 1100-10.2 and the Notice to Proceed authorization in 16 NYCRR § 1100-6.1(g), the Permittee may request a phased NTP for a specific construction activity or specific phase of construction by submitting a comprehensive phasing plan, including a detailed narrative of the scope of work and anticipated pre-construction compliance filings for all phases. For each such requested activity or phase consistent with the plan, the Permittee shall have submitted to the Office a complete description of the work and all applicable pre-construction compliance filings listed in 16 NYCRR § 1100-10.2 and this Permit and identified by the Office as a condition to NTP approval.

(e) ***Final Visual Impact Minimization and Mitigation Plan (VIMMP)*** – Consistent with 16 NYCRR §§ 1100-6.4(l)(1), 1100-6.4(l)(3), and 1100--10.2, the Permittee shall submit a final VIMMP, including but not limited to, a final Shadow Flicker Analysis and turbine operation curtailment plan, final Screen Planting Plans and a final Lighting Plan.

(f) ***Final Net Conservation Benefit Plan (NCBP)*** – Consistent with 16 NYCRR § 1100-10.2, the Permittee shall submit a final NCBP, developed in consultation with the Office and implemented prior to any disturbance of the identified occupied habitat of Threatened and Endangered (T&E)

species. The Permittee shall submit a final Post-Construction T&E Mortality Monitoring Plan developed in consultation with the Office prior to commencement of commercial operation.

(g) ***Final Noise Modeling*** - Consistent with 16 NYCRR §§ 1100-2.8 and 1100-10.2, the Permittee shall submit to the Office as a pre-construction compliance filing updated noise modeling to include:

(1) Computer noise modeling demonstrating that the final selected wind turbine model for the Facility complies with the design goals specified in 16 NYCRR § 1100-2.8(b)(1).

(2) Final noise modeling conducted in compliance with the requirements of 16 NYCRR §§ 1100-2.8(c)(1), (d), (e), (f), (g), and (p) for the final selected wind turbine.

(3) Sound contours for the substation and the wind turbines as specified in 16 NYCRR § 1100-2.8(k).

(4) A tabular comparison of sound results from the substation and the wind turbines as indicated in 16 NYCRR §§ 1100-2.8(l) and (q)(2).

(5) Any mitigation as required by 16 NYCRR §§ 1100-2.8(o)(1)(i) and (ii), (p)(3), and (q)(2).

(h) ***Deadline Extensions*** - Consistent with 16 NYCRR § 1100-6.1(j), the Office may in its discretion grant an extension request made less than fourteen (14) business days prior to an applicable deadline, upon a showing of good cause for the shorter time frame.

6. COMPLIANCE REQUIREMENTS (16 NYCRR subpart 1100-10)

The Permittee shall submit the following compliance filings to the Office or NYSDPS for review and approval in accordance with 16 NYCRR § 1100-10.1. Certain compliance filings are intentionally omitted, as noted below, due to the fact that the Facility has been designed to avoid impacts to a particular resource, the resource is not present at this Facility, or the specific technology proposed renders the compliance filings inapplicable.

6.1 Pre-Construction Compliance Filings (16 NYCRR § 1100-10.2):

Pre-construction compliance filings required pursuant to 16 NYCRR § 1100-10.2 shall be submitted to the Office.

(a) ***Federal and Federally-delegated Permits.*** Copies of all federal and federally-delegated permits and approvals required for construction and operation of the facility.

(b) ***Final Decommissioning.***

(1) Final Decommissioning and Site Restoration Plan, including a decommissioning and site restoration estimate (for site restoration and decommissioning of all proposed Facility components removed four (4) feet below grade in agricultural land and three (3) feet below grade in non-agricultural land and removal and restoration of access road locations, where appropriate) and proof that the letter(s) of credit (or other financial assurance approved by the ORES) have been obtained in the decommissioning and site restoration estimate amount, as calculated pursuant to 16 NYCRR § 1100-6.6(b).

(2) Letter(s) of credit (or other financial assurance approved by the ORES) and copies of agreements between the Permittee and the Towns, Cities, and Villages, establishing a right for each municipality to draw on the letters of credit (or other financial assurance approved by the ORES) dedicated to its portion of the facility shall be provided to the Office of Renewable Energy Siting after one year of facility operation and updated every fifth year thereafter specifying changes (due to inflation or other cost increases) to the structure of the letters of credit (or other financial assurance approved by the ORES).

(c) ***Plans, Profiles, and Detail Drawings.***

(1) A statement shall be provided indicating that a professional engineer has reviewed facility details and attests to the accuracy of the final design as reflected in revised and initially filed (unaffected material) maps, site plans, profile figures, and environmental controls and construction details in accordance with 16 NYCRR §§ 1100-2.6 and 1100-2.17.

(2) Foundation drawings, including plan and sections details, to be used for wind turbine installations; if multiple foundation designs are to be utilized for the facility, the foundation type at each location will be specified on foundation plans (listed in

a table or indicated on corresponding site plans). Applicable criteria regarding foundation design and installation shall be listed and described in the drawings. Foundation drawings shall be stamped and signed by a professional engineer, licensed and registered in New York State.

(3) Copies of any agreements entered with the owners/operators of existing high-pressure gas pipelines regarding the protection of those facilities.

(d) ***Wind Turbine Certifications***.

(1) A design verification, confirming that the wind turbines were designed in accordance with International Electrotechnical Commission (IEC) 61400-1:2019 (see 16 NYCRR § 1100-15.1(b)(1)(i)).

(e) ***Construction Management***.

(1) A Quality Assurance and Control Plan, which shall include job titles and qualifications necessary, demonstrating how the Permittee will monitor and assure conformance of facility design, engineering, and installation, including general concrete testing procedures with a plan outlining the monitoring and testing of concrete procedures in conformance with and reference to all applicable codes and standards.

(2) A Construction Operations Plan, which shall indicate all material lay-down areas, construction preparation areas, temporary concrete batch location, major excavation and soil storage areas, and construction equipment.

(3) A Facility Maintenance and Management Plan, which shall include plans, procedures and criteria specifically addressing the following topics:

(i) Inspections, maintenance, and repairs of turbines, inverters, and associated equipment, including conformance with manufacturer’s required maintenance schedules, safety inspections, and tower integrity; and

(ii) Electric collection, transmission, and interconnect line inspections, maintenance, and repairs.

(4) A Vegetation Management Plan, which shall include, at a minimum, the following:

(i) Vegetation management practices for switchyard and substation yards and for transmission and interconnection facilities, including danger trees (trees that due to location and condition are a particular threat to fall on and damage electrical equipment) around transmission and interconnection facilities, specifications for clearances, inspection and treatment schedules, and environmental controls to avoid off-site effects;

(ii) Vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;

(iii) Planting of native vegetation, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;

(iv) Restoration of disturbed areas, ruts, and rills to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations;

(v) All proposed chemical and mechanical techniques for managing undesirable vegetation. Herbicide use and limitations, specifications, and control measures shall be included;

(vi) Substation fence-line clearances, and overhead wire security clearance zone specifications, indicating applicable safety, reliability, and operational criteria;

(vii) Inspection and target treatment schedules and exceptions;

(viii) Standards and practices for inspection of facilities easements for erosion hazard, failure of drainage facilities, hazardous conditions after storm events or other incidents;

(ix) Review and response procedures to avoid conflicts with future use encroachment or infrastructure development; and

(x) Host landowner notification procedures.

(5) Facility Communications Plan, which shall include the Permittee's construction organizational structure, contact list, and protocol for communication between parties. The Permittee shall provide to NYSDPS staff, Office staff and the municipalities the names and contact information of all individuals responsible for facility oversight.

(6) Environmental Monitoring Plan, including names and qualifications of companies that will serve as environmental monitors (including agricultural monitor).

(7) A Complaint Management Plan, which shall describe, at a minimum, the following:

(i) Methods for registering a complaint, which shall include a phone number, email address, mailing address, and a form to report complaints;

(ii) Notification to the public of the complaint procedures;

(iii) Process for responding to and resolving complaints in a consistent, timely, and respectful manner;

(iv) Logging and tracking of all complaints received and resolutions achieved, with records of the following for each complaint containing:

a. The name and contact information of the person filing the complaint;

b. Location and owner of the property where the complaint originated;

c. Date and time of the underlying event causing the complaint;

d. Description of the complaint; and

e. Current status and description of measures taken to resolve the complaint.

(v) Reporting to the Office and the NYSDPS any complaints not resolved within thirty (30) days of receipt;

(vi) Mediating complaints not resolved within sixty (60) days; and

(vii) Providing annual reports of complaint resolution tracking to the Office staff and NYSDPS staff, which shall also be filed with the Executive Director of the Office and Secretary of the NYSDPS.

(8) A Traffic Control Plan shall be in effect during facility construction, to ensure safety and minimize potential delays to local traffic during construction, which shall describe, at a minimum, the following:

(i) Maps and plans showing final haul routes developed in consultation with the host municipalities and State, County, and municipal highway officials in coordination with the turbine manufacturer. Final haul routes shall be accurately depicted in drawings submitted with the Traffic Control Plan.

(ii) Copies of all necessary transportation permits from the affected State, County, and municipal agencies for such equipment and/or materials on such route. Such permits shall include but not be limited to: Highway Work Permits to work within the ROW, permits to exceed posted weight limits, Highway Utility Permits to construct facilities within ROW, Traffic Signal Permits to work within ROW, Special Haul Permits for oversize/overweight vehicles, and Divisible Load Overweight Permits.

(iii) Copies of all necessary agreements with utility companies for raising or relocating overhead wires where necessary to accommodate the oversize/overweight delivery vehicles, if applicable.

(iv) A copy of all road use and restoration agreements, if any, between the Permittee and landowners, municipalities, or other entities, regarding repair of local roads damaged by heavy equipment, construction or maintenance activities during construction and operation of the facility.

(f) ***Environmental.***

(1) Proof that the required payment was made into the Endangered and Threatened Species Mitigation Bank Fund, if required.

(2) A copy of the Wetland Restoration and Mitigation Plan, if required.

(3) A copy of the Stream Restoration and Mitigation Plan, if required.

(4) A copy of the Invasive Species Control and Management Plan (ISCMP), prepared in compliance with 6 NYCRR Part 575, which shall include the following information:

(i) Baseline mapping of all invasive species within the facility area and for one hundred (100) feet beyond the facility's limit of disturbance (LOD). The baseline mapping and data shall include the relative abundance and distribution of each invasive species prior to the commencement of any construction activities;

(ii) Identification of specific control, removal, and disposal measures to be implemented for each identified and mapped invasive species/plant community during construction activities. The ISCMP shall include a detailed sequence and schedule for all mechanical and chemical control measures to be implemented during construction activities;

(iii) A detailed monitoring plan and specific sampling protocols for each identified and mapped invasive species/plant community within the facility area and for one hundred (100) feet beyond the LOD;

(iv) Identification of specific control contingency measures to be implemented as part of the ISCMP for each identified and mapped invasive species for the duration of the facility adaptive management and monitoring period (i.e., 5 years, unless extended). The ISCMP shall include a detailed sequence and schedule for all contingency mechanical and chemical control measures to be implemented during the monitoring period;

(v) Specific contingency measures to be implemented (i.e., regrading, re-planting of native species etc.) to achieve the final site restoration criteria (i.e., eighty (80) percent survivorship of appropriate native species reestablishment over all portions of the replanted areas, unless the baseline survey indicates a smaller percentage of appropriate species exists prior to construction); and

(vi) Details regarding the responsible party or parties designated to implement the ISCMP and what financial assurances exist to ensure successful monitoring and ISCMP implementation.

(5) A copy of an Inadvertent Return Flow Plan containing the following requirements:

(i) Erosion and sediment control shall be used at the point of HDD, so that drilling fluid shall not escape the drill site and enter NYS-regulated wetlands, waterbodies, and streams (as delineated pursuant to 16 NYCRR § 1100-1.3(e) and (f)). The disturbed area shall be restored to original grade and reseeded upon completion of HDD;

(ii) Drilling fluid circulation shall be maintained to the extent practical;

(iii) If inadvertent returns occur in upland areas, the fluids shall be immediately contained and collected; and

(iv) If the amount of drilling fluids released is not enough to allow practical collection, the affected area shall be diluted with freshwater and allowed to dry and dissipate naturally.

(6) For wind facilities, a Final Geotechnical Engineering Report verifying subsurface conditions within the facility site, including the results of borings and/or test pits at each turbine location.

(g) ***Cultural Resources Avoidance, Minimization and Mitigation Plan.*** A copy of a Cultural Resources Avoidance, Minimization and Mitigation Plan, providing:

(1) A demonstration that impacts of construction and operation of the facilities on cultural resources (including archeological sites and any stone landscape features, and historic resources) will be avoided or minimized to the extent practicable by selection of the proposed facility's location, design and/or implementation of identified mitigation measures.

(2) A Cultural Resources Mitigation and Offset Plan, either as adopted by federal permitting agency in subsequent National Historic Preservation Act (NHPA) Section 106 review, or as required by the Office, in consultation with New York State Historic Preservation Office (SHPO) in the event that the NHPA Section 106 review does not require that the mitigation plan be implemented. Proof of mitigation funding awards for offset facility implementation to be provided within two (2) years of the start of construction of the facility shall be included.

(h) ***Real Property Rights***.

(1) A copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.

(2) Map of survey of facility site properties with property lines based on metes and bounds survey.

(3) Notarized memos or similar proof of agreement for any participating property whose owner has signed a participation agreement or other type of agreement addressing potential facility impacts (e.g., noise, shadow flicker, setback, etc.).

(i) ***Interconnection Agreements***. A copy of any Interconnection Agreements (IA).

(j) ***Host Community Benefits***. Documentation of all host community benefits to be provided by the Permittee.

6.2 Post-Construction Compliance Filings (16 NYCRR § 1100-10.3):

Post-construction compliance filings required pursuant to 16 NYCRR § 1100-

10.3 shall be submitted to the NYSDPS.

(a) Any updated information regarding the design, safety, and testing for the wind turbines, inverters, substation, transformer, and battery storage equipment to be installed during construction as well as information regarding the design, safety, and testing for any equipment installed during facility operation as a replacement of failed or outdated equipment shall be filed within fourteen (14) days of completion of all final post-construction restoration.

(b) As-built plans in both hard and electronic copies shall be filed within nine (9) months of the commencement of commercial operations of the facility and shall include the following:

(1) GIS shapefiles showing all components of the facility (wind turbine locations, electrical collection system, substation, buildings, access roads, met towers, point of interconnection, etc.);

(2) Collection circuit layout map; and

(3) Details for all facility component crossings of, and co-located installations of facility components with, existing pipelines: showing cover, separation distances, any protection measures installed, and locations of such crossings and co-located installations.