

**Supplement to the Application
for a Permit Pursuant to § 94-c of the New York State
Executive Law for Construction of a Major Solar
Electrical Generating Facility**

Mill Point Solar I Project
Town of Glen, Montgomery County, New York

Matter No. 23-00034

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Introduction

In response to the Notice of Incomplete Application (NOIA) Letter received on April 12, 2024 from the Executive Director of the New York State Office of Renewable Energy Siting (ORES or the Office) regarding the Application submitted by ConnectGen Montgomery County LLC (Applicant) pursuant to § 94-c of the New York State Executive Law for Construction of a Major Solar Electrical Generating Facility for the Mill Point Solar I Project (the Facility), supplemental information is provided below and attached.

The organization of this document (hereafter referred to as the “Supplement to the Application”) is consistent with the April 12, 2024, letter and presents each comment, as numbered by ORES, followed by the Applicant’s response to the comment. Additionally, the Applicant has included the ORES requested GIS data as a single updated ESRI file Geodatabase. The Geodatabase has an associated excel file indicating the data sources for the spatial data, which is provided in in the Confidential USB provided to ORES staff to this Supplement to the Application.

Since the filing of the NOIA by ORES, New York passed the Renewable Action through Project Interconnection and Deployment Act (RAPID). The RAPID Act (L 2024, ch 58, part O) became effective on April 20, 2024 and repealed New York State Executive Law § 94-c (Section 94-c). Additionally, the RAPID Act repealed the current provisions under Public Service Law (PSL) Article VIII and enacted a new Article VIII entitled “Siting of Renewable Energy and Electric Transmission” (herein referred to as Article VIII). With respect to ORES’s regulations at 19 New York Codes, Rules, and Regulations [NYCRR] part 900, the RAPID Act transfers part 900 to 16 NYCRR Chapter XI and continues part 900 in full force and effect subject to conforming changes, such as the substitution of numbering, names, titles, citations, and other non-substantive changes to be filed with the Secretary of State (see RAPID Act Section (§) 7).

The RAPID Act also transferred ORES (current regulatory body for Section 94-c) from the Department of State (DOS) to the Department of Public Service (DPS). ORES will continue all existing functions, powers, duties, and obligations related to major electric transmission siting. Article VIII places the review and permitting of both generating and transmission facilities into a single forum (ORES).

The Applicant is aware that on July 17, 2024 the conforming changes were adopted to ORES’s former regulations, creating a new 16 NYCRR Part 1100. However, given that the new regulations were only recently adopted and other papers filed in this proceeding reference ORES’s regulation, for continuity this response and the Application retain the numbering of the former Part 900.

Exhibit 3. Location of Facilities and Surrounding Land Use

1.19 NYCRR § 900-2.4(a)(3) requires that the mapping for the Facility includes “[t]he proposed limits of clearing and disturbance for construction of all facilities and ancillary features.” The narrative in Exhibit 3 indicates that the proposed limits of disturbance (LOD) are shown on Figures 3- 1: Project Component Location and 3-7: Aerial Photography. However, these figures outline the Facility Site, but not the LOD. Please revise Figures 3-1 and 3-7 to depict the LOD or update the narrative to correctly indicate where the LOD are depicted.

RESPONSE: The Applicant provided **Revised Figure 3-1** and **Revised Figure 3-7** to depict the LOD.

2. 19 NYCRR § 900-2.4(g) requires that the Applicant “[f]or “floating” or “overlay” zones that are not specifically attributable to a specific mapped zoning district, describe the applicable substantive criteria that apply for establishment of the overlay zone.” Please revise Exhibit 3(g) of the narrative to include a description of the three Town of Glen overlay districts mentioned on page 8. Please update Figure 3-5: Zoning and Publicly Known Proposed Land Uses to outline the three overlay zone locations (if applicable).

RESPONSE: The Applicant consulted with the Town regarding the location of the overlay districts, see Appendix 3-6. The Town advised that the Town has not created an overlay zone for adult oriented businesses or wireless service facilities to date and stated that the if a historic hamlet overlay were to exist, it would be within the existing Hamlet District bounds. The Applicant has provided a **Revised Exhibit 3**, Section 3(g) to include a description of the three overlay districts within the Town of Glen. Additionally, the Applicant provided **Revised Figure 3-5** to illustrate that the overlay district (Historic Overlay District) corresponds to the existing Hamlet District.

Exhibit 4. Real Property

3. 19 NYCRR § 900-2.5(c) requires “[a] demonstration that the applicant has obtained title to or a leasehold interest in the facility site...”

a. Please provide a Table 4-1: Property Information Table as part of Exhibit 4, as well as an updated Figure 4-1: Property Boundaries to confirm parcel status of each property identified therein. To the extent that any parcels are included in either a newly provided Table 4-1 or updated Figure 4-1 as potentially participating please confirm the status of such parcel.

RESPONSE: See Response to 3.b.

b. Please provide updated spatial data and update other Application exhibits accordingly.

RESPONSE: The Applicant provided an **updated spatial data geodatabase** to ORES via USB, including information requested in 3.a.

Exhibit 5. Design Drawings

4. 19 NYCRR § 900-2.6(f)(1)(i) requires that site plans for the proposed Facility include, among other things, drawings “of all facility components...” However, certain items and relevant details appear to be absent from the site plan design drawings provided. Please address the following on all applicable drawings:

a. Please provide a typical detail for repair of existing drain tiles. Such details should be consistent with the guidelines for repair of subsurface drain tiles provided by the New York State Department of Agriculture and Markets (NYSAGM) and the information otherwise provided by the Applicant in Appendix 15-4: Drainage Remediation Plan.

RESPONSE: The typical detail for repair of existing drain tiles has been included in **Revised Appendix 5-1**, Sheet MPS-C-107-03. Additionally, the Applicant provided a **Revised Exhibit 15** Section 15(d)(2) and updated **Revised Appendix 15-4** accordingly.

b. For consistency across Application exhibits, please include the following in General Notes: "Blasting is Prohibited."

RESPONSE: The Applicant provided a **Revised Appendix 5-1**, Sheet MPS-C-100-02 to include "Blasting is Prohibited" in General Notes on all applicable drawings.

c. Please clearly identify and label the location of the proposed Operations and Maintenance (O&M) Building.

RESPONSE: The Applicant provided a **Revised Appendix 5-1**, Sheet MPS-C-102-17 to identify and label the proposed location of the O&M Building. Additionally, the Applicant provided a **Revised Exhibit 5**, Section 5(f)(2)(i)(b) accordingly.

5. 19 NYCRR § 900-2.6(f)(1)(i)(b) requires that site plans for the proposed Facility include the "[e]xtents of proposed access road travel lanes... and any turn-around areas..." 19 NYCRR § 900-2.6(f)(2)(ii) requires that "[e]ach proposed permanent point of access or access type shall include a typical installation plan view..." Regarding these requirements, please address the following:

a. Please supplement Appendix 5-1: Design Drawings to provide any Town or County driveway design standards applicable to the proposed site entrances from Town or County-owned roads, or confirmation that no such standards exist (e.g., paved aprons).

RESPONSE: The Applicant has designed the access road driveways to comply with all Town/County applicable driveway standards. The Applicant provided a **Revised Appendix 5-1** to include a new note on sheets MPS-C-106-02 to MPS-C-106-07 which provides discussion regarding the County driveway design standards as applicable to the Facility proposed site entrances. Additionally, the Applicant provided **Revised Exhibit 5**, Section 5(f)(2)(ii) to reflect this information.

b. Please revise the drawings to show compliance with the most recent applicable New York State Department of Transportation (NYSDOT) driveway standards.

RESPONSE: The Applicant provided **Revised Appendix 5-1** to include Sheet MPS-C-106-03 to demonstrate compliance with the applicable NYSDOT driveway standards, as well as added the NYSDOT 2016 Residential and Minor Commercial Driveway standards sheet after Sheet MPS-C-106-07. Additionally, the Applicant provided **Revised Exhibit 5**, Section 5(f)(2)(ii) to reflect this information.

6. Please supplement the Design Drawing General Construction Notes (Sheet MPS-C-100-02) to indicate all time-of-year restrictions for the protection of threatened and endangered (T&E) species.

RESPONSE: The Applicant provided **Revised Appendix 5-1**, Sheet MPS-C-100-02 to include all time-of-year restrictions for the protection of T&E species.

7. 19 NYCRR § 900-2.6(f)(2)(i) requires “[t]ypical elevation drawings indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment...” Please clarify and update applicable Appendix 5-1: Design Drawings to address the following:

a. Please include notes or details that describe the material of construction, color, and finish for the O&M Building, Control Buildings and the sound barrier wall at the collection substation, and the Point of Interconnection (POI) switchyard.

RESPONSE: The Applicant provided **Revised Appendix 5-1**, Sheet MPS-E-405-01 (O&M Building), and **Revised Appendix 5-3** Sheets MPS-E-210-04 (Control Building at Substation) and MPS-E-210-14 (Control Building at POI Switchyard), and MPS-E-210-16 (Sound Wall at Substation) to describe the material of construction, color and finish for each proposed structure. The exact specifications of the POI Switchyard components will be determined by National Grid before construction. Additionally, the Applicant provided **Revised Exhibit 5** Section 5(f)(2)(i) to reflect this information.

b. Please provide elevation drawing details for the collection substation Control House.

RESPONSE: The Applicant provided **Revised Appendix 5-3**, Sheet MPS-E-210-04 to include elevation drawing details for the substation Control House.

c. Exhibit 5(f)(2)(i)(c) refers to several drawing sheets that appear to be mistitled based on the Appendix 5-3: Substation and Switchyard Design drawings provided (references to “HV-P” series, as opposed to “MPS-E” series). Please clarify and correct this discrepancy as appropriate.

RESPONSE: The Applicant provided **Revised Exhibit 5**, Section 5(f)(2)(i)(c) to correctly reference the **Revised Appendix 5-3** sheet numbers.

d. Please update the POI switchyard General Arrangement drawing to depict additional dimensional details for station equipment, bus, gate(s), trench, road, and the Control Building in a similar manner to the level of detail provided for the collection substation General Arrangement.

RESPONSE: The Applicant provided **Revised Appendix 5-3**, Sheet MPS-E-210-10 to include additional dimensional details on the POI switchyard General Arrangement drawing.

8. 19 NYCRR § 900-2.6(f)(2)(i)(c) requires typical elevation drawings for the “[c]ollection substation(s) (including fencing, gates, and all substation equipment)...” Please add details with respect to the collection substation sound wall as depicted in Appendix 5-3: Substation and Switchyard Design Sheet MPS-E-210-15 to include the following:

a. A cross section that provides details and dimensions of the sound wall.

RESPONSE: The Applicant provided **Revised Appendix 5-3**, Sheet MPS-E-210-16 to include a cross section that shows details and dimensions of the sound wall.

b. Additional details that depict the design for the sound wall gates as shown on collector substation General Arrangement (sheet MPS-E-210-01) including gate design, length, width, height, material of construction, color, and finish.

RESPONSE: The Applicant provided **Revised Appendix 5-3**, Sheets MPS-E-210-01 and added Sheet MPS-E-210-16 to include additional details on the proposed sound wall gates design.

9. 19 NYCRR § 900-2.6(f)(2)(iii) requires details of “[t]ypical underground infrastructure...” Please address the following:

a. Appendix 5-1: Design Drawings drawing MPS-E-407-01 DC Trench Details: Note 7 states “[m]inimum clearances shall be maintained between circuits/ conduits as shown in trench detail(s),” yet the details B, C, and D on the sheet do not show clearances. The details also provide a circular reference back to Note 7. Please clarify and depict clearances as appropriate.

RESPONSE: The Applicant provided **Revised Appendix 5-1**, Sheet MPS-E-407-01 DC Trench Details to depict clearances and to update Note 7.

b. Appendix 5-1: Design Drawings drawing MPS-E-602-01 Trench, Bore and Sectionalizer Details: Note 2 states “[d]o not install DC and AC circuits in the same trench...” However, drawing MPS-E-407-01 Detail A depicts DC, AC MV Circuits in the same trench. Please clarify the apparent discrepancy between this note and drawing detail and correct the drawings as appropriate.

RESPONSE: The Applicant provided **Revised Appendix 5-1** to update Note 2 on Sheet MPS-E-602-01 Trench, Bore and Sectionalizer Details.

Exhibit 6. Public Health, Safety, and Security

10. 19 NYCRR § 900-2.7(a) requires a characterization of wastes produced during construction and operation of the Facility. Please provide the anticipated volumes of various types of waste that will be generated (including woody debris), and anticipated disposal methods.

RESPONSE: The Applicant revised and reorganized **Revised Exhibit 6**, Section 6(a)(1) to include anticipated volumes of generated waste and associated disposal methods.

11. 19 NYCRR § 900-2.7(b)(5) requires “[a] description of a cyber security program... demonstrating compliance with current standards issued by a standards setting body generally recognized in the information technology industry...” Please provide additional information addressing how the Applicant will implement a cybersecurity program that complies with current industry standards. Such additional information should specifically address inventory of cyber assets, cybersecurity awareness training, physical security access controls, cyber security incident response plan, and transient cyber assets and removeable media.

RESPONSE: The Applicant provided **Revised Exhibit 6, Revised Appendix 6-1** (Site Security Plan) to include additional information regarding the implementation of the Facility’s cyber security program.

12. 19 NYCRR § 900-2.7(c)(7) requires that the Safety Response Plan (SRP) include a requirement that the Applicant conduct annual training drills with emergency responders. Please revise the SRP to require coordination with and consideration of feedback from local first responders in connection with annual trainings, as well as incorporating any necessary revisions to the SRP as a result of this feedback.

RESPONSE: The Applicant provided **Revised Appendix 6-2, Safety Response Plan (SRP)** to state that the Applicant will conduct annual training drills with emergency responders as well as solicit and incorporate their feedback in any necessary revisions to the SRP.

Exhibit 8. Visual Impacts

13. 19 NYCRR § 900-2.9(a)(5) requires that the visual impact assessment (VIA) address “[t]he proposed facility lighting (including lumens, location and direction of lights for the facility site...)” Please label the lighting units illustrated in the photometric plans and provide sufficient information to document compliance with 19 NYCRR § 900-2.9(d)(9)(iii).

RESPONSE: The Applicant has revised lighting plans to incorporate lighting units and light fixture specifications, and they are provided in Attachment 6 of **Revised Appendix 8-1** (Visual Impacts Minimization and Mitigation Plan [VIMMP]) (Attachment 6). Lighting Plans indicate compliance with 19 NYCRR § 900-2.9(d)(9)(iii). Section 11.13 of **Revised Appendix 8-1** already stated compliance and received minor adjustments.

14. 19 NYCRR § 900-2.9(b)(4) requires that “...the applicant shall confer with municipal planning representatives, the Office, and where appropriate, OPRHP and/or APA in its selection of important or representative viewpoints.” Pursuant to 19 NYCRR § 900-2.9(b)(4)(v), please provide an assessment of visual impacts of the interconnection facility pursuant to the Solar Energy Facilities Law of the Town of Glen § 5(10) including:

a. A photosimulation of the interconnection facilities as requested in 15(b)(iii);

RESPONSE: The Applicant prepared a photo-simulation (Viewpoint [VP] 69), which is included in the Revised Attachment 3 of **Revised Appendix 8-1**. VP 69 is representative of the closest public vantage point to the proposed interconnection facilities from Ingersoll Road.

b. Discussion in the Visual Impacts Minimization and Mitigation Plan (VIMMP) of other considerations that led to the proposed interconnection layout, describing how the proposed Facility design complies with this local law and reasons why undergrounding was determined infeasible;

RESPONSE: The Applicant revised Section 11.8 of **Revised Appendix 8-1** to describe how the proposed interconnection layout came about, how the proposed Facility design complies with this local law, and reasons why undergrounding was determined infeasible.

c. Additional information on the proposed design, colors and textures of the control buildings, O&M Building, sound barrier wall, and interconnection structures, with cross-references to the design drawings as applicable.

RESPONSE: The Applicant provided **Revised Appendix 5-1**, Sheet MPS-E-405-01 (O&M Building), and **Revised Appendix 5-3** Sheets MPS-E-210-04 (Control Building at Substation) and MPS-E-210-14 (Control Building at POI Switchyard), and MPS-E-210-16 (Sound Wall at Substation) to describe the material of construction, color and finish for each proposed structure. The exact specifications of the POI Switchyard components will be determined by National Grid before construction. Additionally, the Applicant provided **Revised Exhibit 5** Section 5(f)(2)(i) and **Revised Appendix 8-1** to reflect this information.

15. 19 NYCRR § 900-2.9(c)(1) requires that “[p]hotographic simulations of the facility shall be prepared from the representative viewpoints to demonstrate the post-construction appearance of the facility. Where vegetation screening is relied on for facility mitigation, leaf-off and leaf-on simulation shall be provided.” Please address the following:

a. Differentiate photosimulation locations from viewpoint (VP) locations on viewshed mapping (Figures 3, 4, and 5 of the VIA). Include an indication of the direction of the view.

RESPONSE: Photo-simulation location symbology in Revised Figures 3, 4, and 5 of **Revised Appendix 8-1** has been modified to differentiate and indicate the viewing direction.

b. Provide additional photosimulations to better represent visibility from different locations across the study area including:

RESPONSE: Five additional VPs were incorporated as simulations to represent visibility from different locations across the Visual Study Area (VSA) and are listed in Revised Attachment 3 of **Revised Appendix 8-1** as VPs 31, 38, 58, 69, and 93. A total of 20 new representative simulations were prepared as part of the NOIA response (see Attachment 3 of **Revised Appendix 8-1**).

- i. VP27, VP31 and VP32 to demonstrate minimization and mitigation of the visual impacts on the Glen Historic District;

RESPONSE: In addition to the VP 80 simulation which illustrates a representative view from the Glen Historic District, VP 31 was also prepared from this district (see Revised Attachment 3 of ***Revised Appendix 8-1***).

- ii. VP58 in Fulton County representing the visibility of the Facility from north of the Mohawk River;

RESPONSE: VP 58 was developed as a simulation and demonstrates a view north of the Mohawk River, within Montgomery County. Several other simulations are positioned north of the Mohawk Valley and include VPs 61, 93, and 94. See Revised Attachment 3 of ***Revised Appendix 8-1*** to view the simulations.

- iii. VP69 and VP71 representing views of the POI;

RESPONSE: As mentioned in response 14a, the Applicant prepared VP 69 as a simulation from the nearest vantage point to the POI from Ingersoll Road. See Revised Attachment 3 of ***Revised Appendix 8-1***.

- iv. VP17 and VP93 representing views from historic sites: Baird Bennett House and Volkert Veeder House

RESPONSE: The VP 93 simulation is available in Revised Attachment 3 of ***Revised Appendix 8-1*** and provides a view toward the Facility from the vicinity of the National Register of Historic Places (NRHP) Eligible Volkert Veeder House.

- v. VP14 and VP38 documenting the effectiveness of screen plantings in mitigating views from non-participating residences; and

RESPONSE: A simulation was performed from VP 38 (Egelston Road) and demonstrates the effectiveness of the proposed landscaping mitigation during a 5-year (leaf-on) period, post-construction from a non-participating resident. The simulation additionally demonstrates landscaping mitigation during a 0 to 2-year period and can be obtained in Revised Attachment 3 of ***Revised Appendix 8-1***.

- vi. The locations provided in the Solar Energy Facilities Law of the Town of Glen § 5(7)(a).

RESPONSE: As suggested by ORES, VP 31 was developed as a photo-simulation from a non-participating residence as required in the Solar Energy Facilities Law of the Town of Glen § 5(7)(a). The VP 31 simulation can be reviewed in Revised Attachment 3 of ***Revised Appendix 8-1***.

16. 19 NYCRR § 900-2.9(c)(3) requires a summary comparison, rating, and results of the VIA for “[e]ach set of existing and simulated views of the facility...” Please provide additional panel ratings for the following:

a. All additional photosimulations developed in response to item 15 above.

RESPONSE: Additional ratings of the five additional VP photo-simulations have been completed to determine Facility contrast values during a 0 to 2-year condition of the proposed landscaping mitigation. To view these ratings, see Table 12-A in **Revised Appendix 8-1**.

b. 5-year post-construction simulations, comparing these with the ratings for 0-2 year post-construction photosimulations to assess the effectiveness of the proposed mitigation.

RESPONSE: Additional ratings of the entire suite of VP photo-simulations have been completed for a comparison of the Facility contrast values during a 0 to 2-year and 5-year condition of the proposed landscaping mitigation. To view these ratings, see Table 12-B in **Revised Appendix 8-1**.

17. 19 NYCRR § 900-2.9(d)(3) requires that “[e]lectric collection and transmission facilities design shall specify use of either wood poles or steel pole structures...” Please revise the VIMMP to demonstrate compliance with this requirement.

RESPONSE: As mentioned in **Revised Appendix 8-1**, Section 11.8 of the VIMMP, "Transmission structures facilitating the POI shall have a non-glare finish. Use of a dark brown or green weathered steel dead-end structure shall be considered in the development of final engineered design."

18. 19 NYCRR § 900-2.9(d)(8) requires “[p]lanting Plans which shall include the facility substation; energy storage structures; and the POI Switchyard; and for components of solar generating facilities as appropriate to facility setting.” On Sheet L-102-01, please revise Note #2 to state that all plantings should comply with 19 NYCRR § 900-6.4(l)(3) for plant survival.

RESPONSE: The Applicant revised Note 2 on Sheet MPS-L-102-01, **Revised Appendix 5-3** and Attachment 6, Plan 6A in **Revised Appendix 8-1** to state that all plantings should comply with 19 NYCRR § 900-6.4(l)(3) for plant survival.

19. 19 NYCRR § 900-2.9(d)(9)(ii) requires “[p]lan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement and illumination levels to provide safe working conditions at the collection substation site, and any exterior equipment storage yards or other locations.” Please address the following:

a. The switchyard and substation lighting plans do not depict exterior lighting for the control buildings. However, POI Switchyard Section F-F on Drawing MPS-E-210-14 depicts a LED downlight fixture on the building. Please revise the lighting plans, lighting fixture schedule, and associated materials to incorporate any proposed exterior building lighting, including manufacturer's cut sheets as appropriate.

RESPONSE: As indicated in Revised Attachment 6 of **Revised Appendix 8-1**, sections of the Control House within the switchyard and substation identify locations of the light fixtures. The light fixtures with full cut-off capability have been incorporated into the revised lighting plans (**Revised Appendix 5-3**, Sheets MPS-E-210-21 and MPS-E-210-22). Manufacturer specifications for each light fixture are also available in Revised Attachment 6, of the **Revised Appendix 8-1**.

b. Please clarify the tilt angle proposed for the lighting fixtures to demonstrate compliance with the requirement for such fixtures to be "...directed to the ground and/or work areas to avoid being cast skyward or over long distances..." (19 NYCRR § 900-2.9(d)(iii)(a)).

RESPONSE: The Applicant has provided language confirming compliance in **Revised Appendix 8-1**, Section 11.13. Revised lighting plans in Revised VIMMP (Revised Attachment 6 of **Revised Appendix 8-1**) also provide notes stating compliance with downward lighting, a table of lights with angles, and a legend depicting the subject light angles.

c. Please provide an illumination simulation depicting lighting levels for the O&M Building.

RESPONSE: As indicated in Revised Attachment 6 of **Revised Appendix 8-1**, light fixtures have been identified on the exterior of the Control House buildings within the switchyard and substation. The lighting plan illumination analysis has been revised to incorporate the control house light fixtures and is available to review in Revised Attachment 6 of **Revised Appendix 8-1**.

20. 19 NYCRR § 900-2.9(d)(9)(iii)(b) requires "...full cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare) for permanent exterior lighting, consistent with OSHA requirements and adopted local laws or ordinances, including development standards for exterior industrial lighting, manufacturer's cut sheets of all proposed lighting fixtures shall be provided." Please provide the manufacturer's cut sheets and any other additional information and details for lighting at the substation.

RESPONSE: The Applicant Revised Attachment 6 of **Revised Appendix 8-1** (VIMMP) to include light specifications with full cut-off capability. Minor narrative changes in **Revised Appendix 8-1**, Section 11.13 were also updated.

Exhibit 9. Cultural Resources

21. 19 NYCRR § 900-2.10(a)(1) requires “[a] summary of the nature of the probable impact on any archeological/cultural resources...” Please address the following:

a. The Office of Parks, Recreation, and Historic Preservation/State Historic Preservation Office (OPRHP/SHPO) requested an Addendum Phase IB survey for this Facility on March 8, 2024 through its Cultural Resources Information System (CRIS) database. Once OPRHP/SHPO's review of this additional information is complete, please update all applicable exhibits and appendices to reflect the result of this consultation and the Applicant's proposed measures to avoid, minimize, or mitigate potential impacts to cultural resources.

RESPONSE: The Applicant has worked with a participating landowner, parcel ID 67.-1-13.2, who has agreed to site additional panels in an area previously designated as a panel exclusion area. Therefore, TRC, on behalf of the Applicant, conducted additional Phase IB field work on parcel ID 67.-1-13.2, which was documented in the Phase IB Addendum II report. Therefore, the Applicant provided **Revised Appendix 9-1** to include the Phase IB Addendum II Report that was submitted to OPRHP for review on April 18, 2024, and **Revised Appendix 9-2** to include OPRHP correspondence associated with the Phase IB Addendum II Report. Additionally, the Applicant revised the text in **Revised Exhibit 9**, Section 9(a)(4) to include discussion on this report and associated consultation with OPRHP.

b. Please revise the Exhibit 9 narrative to clarify that the archaeological surveys for the Facility encompass what has now been divided into two different Facility plans.

RESPONSE: The Applicant provided **Revised Exhibit 9**, Sections 9(a)(2) and 9(a)(3) to clarify that the archaeological surveys were conducted prior to the boundary definition of the final Facility Site for Mill Point Solar I, therefore the Study Areas for said surveys encompassed additional lands outside of the final Facility Site for Mill Point Solar I.

22. 19 NYCRR § 900-2.10(a)(5) requires “[a]n Unanticipated Discovery Plan [UDP] that shall identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance are encountered during the excavation process...”

a. Please update UDP Sections 2.1 and 3.0 to state that the ORES Agency Preservation Officer (APO) and the New York State Department of Public Service (NYS DPS) compliance staff will be notified in the event of discovery of archaeological materials or human remains.

RESPONSE: The Applicant provided **Revised Appendix 9-6**, Sections 2.1 and 3.0 with this information.

b. Please update UDP Section 2.1 to indicate that the additional information provided to OPRHP/SHPO will also be provided to the ORES APO.

RESPONSE: The Applicant provided **Revised Appendix 9-6**, Section 2.1 with this information.

c. Please remove the five business day requirement from UDP Section 2.1.

RESPONSE: The Applicant provided **Revised Appendix 9-6**, Section 2.1 to remove the five-business day requirement.

d. Please update UDP Section 3.0 to indicate that consultations will include the ORES APO.

RESPONSE: The Applicant provided **Revised Appendix 9-6**, Section 3.0 with this information.

e. Please include NYSDPS compliance staff on the UDP contact information list.

RESPONSE: The Applicant provided **Revised Appendix 9-6**, Section 4.0 with this information.

23. 19 NYCRR § 900-2.10(b) requires “[a] study of the impacts on historic resources within the project impact area... including an analysis of potential impact on any standing structures which appear to be at least fifty (50) years old and potentially eligible for listing in the State and National Register of Historic Places...” Please revise Exhibit 9 and Table 5 of Appendix 8-1: VIA to reflect the final OPRHP/SHPO determinations of eligibility for all resources as reflected in CRIS. In addition, please include the SHPO Unique Site Numbers (USNs) for all National Register eligible resources in Table 5 and verify that all National Register eligible resources identified by the historic resources survey are included. For example, and not intended to be limited to, these three eligible surveyed resources do not appear in the Visually Sensitive Resource (VSR) table: Farm, 345 Brumley Road (05709.000070); House, 508 Old Trail Road (05707.000120); and Farm, 128 Raym Road (05705.000149).

RESPONSE: The Applicant provided **Revised Exhibit 9** to include USNs for National Register Eligible (NRE) sites referenced in the text. In **Revised Appendix 8-1**, Table 5, the Applicant added USNs to properties that were added into CRIS as a result of this survey. Reviewed properties that were recommended NRHP eligible in the Historic Architectural Resources Survey and Effects Report (Appendix 9-3) [31 Broadway (USN 05744.000118)] was added to Table 5. Four of the NRE sites that were identified as a result of the historic resources surveys were beyond the two-mile Visual Survey Area (VSA) [345 Brumley Road (USN 05709.000070), 508 Old Trail Road (05707.000120), 128 Raym Road (05705.000149), and 692 Logtown Road (05705.000153)] and visibility of the Facility was determined unlikely and therefore they were excluded.

Exhibit 10. Geology, Seismology and Soils

24. 19 NYCRR § 900-2.11(a)(4) requires the Applicant to “[c]haracterize subsurface conditions where hydraulic horizontal directional drilling [HDD] is proposed...” Neither Exhibit 10 nor Appendix 10-1: Geotechnical Engineering Report include a discussion of subsurface conditions at proposed HDD locations. Please revise Exhibit 10 and Appendix 10-1 to include a characterization of subsurface conditions at each proposed HDD location and provide a site-specific assessment of HDD feasibility and frac-out risk.

RESPONSE: In **Revised Exhibit 10**, the Applicant has created a new Table, Table 10-3 HDD Locations and Relative Risk of Frac Out and a new Figure, Figure 10-6, to address the site-specific assessment of HDD feasibility and frac-out risk based on the Geotechnical Engineering Report (see Appendix 10-1).

25. 19 NYCRR § 900-2.11(a)(12) requires “[a] description of the characteristics and suitability for construction purposes of each soil type...” With respect to this requirement, please provide supporting analysis by a qualified professional that the proposed vegetated turnarounds shown in Appendix 5-1: Design Drawings will be designed to support the weight of emergency response vehicles required by the 2020 New York State Fire Code. Please provide a similar analysis for the proposed limited use pervious road segments.

RESPONSE: In **Revised Exhibit 10**, the Applicant has provided a supporting analysis conducted by a qualified professional indicating that the proposed gravel access roads, vegetated turnarounds, and stabilized pervious access road segments meet or exceed design criteria. The gravel access roads, vegetated turnarounds, and stabilized pervious access road segments have been designed to support the weight of emergency response vehicles required by the New York State 2020 Fire Code. The Applicant has provided a new Appendix, **Appendix 10-2**, Road Design Calculations, and has provided **Revised Exhibit 10**, Section 10(a)(12) to include this information.

26. 19 NYCRR § 900-2.11(b)(1) requires “[a] preliminary engineering assessment to determine the types and locations of potential foundations to be employed... [and] a statement that all such techniques conform to applicable building codes...” Please provide additional discussion of the potential foundation designs contemplated for the O&M Building, including any code required design parameters (e.g., Bearing Capacity, total and differential settlement). If the soil design parameters in Table 6d. are intended to apply to the O&M Building, please indicate accordingly. In the alternative, please provide records showing consultation with the code official with jurisdiction regarding the matter, or a statement of concurrence from the official that the assessment may be filed with the Office prior to construction.

RESPONSE: The Applicant has added text to **Revised Exhibit 10**, Section 10(b)(1)(ii) outlining that the design parameters outlined in Table 6d of Section 4.2.2 of Appendix 10-1, can be used as preliminary design parameters for a helical screw support system for the O&M building.

Exhibit 11. Terrestrial Ecology

27. 19 NYCRR § 900-2.12(a) requires a description of plant communities present within 100 feet of areas to be disturbed. Please supplement Table 11-1 and the accompanying narrative to differentiate forest ecological community types (as described in “Ecological Communities of New York State,” New York Natural Heritage Program (NYNHP), 2014) and provide an acreage for each community type.

RESPONSE: The Applicant provided **Revised Exhibit 11**, Section 11(a)(1) and Table 11-1 to describe the Ecological Communities of New York State that are present within 100 feet of areas to be disturbed. The Applicant provided **Revised Figure 11-1** to illustrate the revisions indicated in **Revised Exhibit 11**.

28. 19 NYCRR § 900-2.12(b) requires an analysis of temporary and permanent impacts of construction and operation of the Facility and a map showing where vegetation will be “removed or disturbed.”

a. Please supplement Tables 11-2 and 11-3 and the accompanying narrative to indicate forest ecological community type (as described in “Ecological Communities of New York State”, NYNHP, 2014) affected and acreage affected per community type.

RESPONSE: The Applicant provided **Revised Exhibit 11**, Section 11(b), Tables 11-2 and 11-3 to include an analysis of the affected ecological communities of NYS and provided the proposed acreage of impact.

b. Please provide a map showing the ecological communities to be affected and the type of effect.

RESPONSE: The Applicant provided a new figure, **Figure 11-2**, to illustrate the ecological communities to be affected by the Facility and the type of effect.

29. 19 NYCRR § 900-2.12(c) requires “[a]n identification and evaluation of avoidance measures or, where impacts are unavoidable, minimization measures, including the use of alternative technologies, regarding vegetation impacts identified.” Please supplement Exhibit 11(c) to differentiate among forest ecological community types and discuss all alternatives considered for component placement to reduce impacts to vulnerable or rare forest ecological communities.

RESPONSE: The forest ecological community type that makes up the forestland within the Facility Site is successional southern hardwood forests, which is demonstrably secure in NYS. No impacts to vulnerable or rare forest ecological communities are anticipated. The Applicant provided **Revised Exhibit 11**, Section 11(c) to reflect this information and data sources.

30. 19 NYCRR § 900-2.12(d) requires a list of all wildlife that “...are likely to occur [at the Facility] based on ecological communities present at, and bird and bat migration routes... supplemented as necessary by site surveys, site observations and publicly available sources.” Please supplement Appendix 11-2: Wildlife Inventory Tables to show all species likely to occur and include whether the species was detected at the Facility during surveys. Please include all survey results.

RESPONSE: The Applicant provided ***Revised Appendix 11-2***, to change the fourth column to say, “Observed within the Facility Site by Biologists.” All survey results that were conducted within the Mill Point Solar I Facility Site boundary are included within this appendix.

Exhibit 12. New York State Threatened and Endangered Species

31. 19 NYCRR § 900-2.13(d) requires “... [a]n identification and evaluation of avoidance and minimization measures incorporated into the facility design, as well as any unavoidable potential impacts to NYS threatened or endangered species or species of special concern.” Please update Table 12-1 in Exhibit 12 to include the appropriate seasonal work windows within NYS T&E occupied wintering habitat.

RESPONSE: The Applicant provided ***Revised Exhibit 12***, Table 12-1 to include the appropriate seasonal work windows (between April 1 and November 14) within NYS T&E occupied wintering habitat.

32. 19 NYCRR § 900-2.13(f) requires that a Net Conservation Benefit Plan (NCBP) be submitted in compliance with 19 NYCRR § 900-6.4(o) “[f]or a facility that would adversely impact any NYS threatened or endangered species or their habitat...” Please supplement the NCBP to identify specific tax parcels and areas with a minimum of 25 contiguous acres of open land within those parcels proposed to meet the avian mitigation requirements and provide corresponding spatial data. For the specific mitigation parcels proposed, describe all conservation and maintenance practices, including without limitation, all site preparation, management methods, restrictions, timing, and schedules to occur within the mitigation parcels for the life of the Facility.

RESPONSE: The Applicant has provided additional details on the management of a future mitigation site in the NCBP (see ***Revised Appendix 12-6***) however the Applicant is still pursuing potential off-site mitigation options via third party mitigation providers. Therefore, specific mitigation parcel details are unknown currently. The Applicant is committed to providing a Final NCBP with the details of the mitigation site for ORES review and approval prior to the commencement of construction activities within grassland bird habitat. The Applicant requests the permit include a site-specific condition regarding mitigation requirements and proposes the following:

Final Net Conservation Benefit Plan (NCBP) – Consistent with 19 NYCRR § 900-10.2, the Permittee shall submit a final NCBP, developed in consultation with the Office.

Exhibit 14. Wetlands

33. 19 NYCRR § 900-2.15 (g) states that “[f]or facilities for which compensatory mitigation is required... applicant shall submit a Wetland Restoration and Mitigation Plan...”

a. Exhibit 14, Tables 14-1 and 14-2 indicate 0.58 acres of impact to wetland W-NSD-01 from activities identified as “Selective Clearing”, and 0.15 acres of wetland adjacent area impact from “Other Activities Integral to the Project Involving Grading”. However, Figure 14-3: Wetland W-NSD-01 Proposed Impacts and spatial data indicate the disturbance is associated with the activity identified in 19 NYCRR § 900-2.15 Table 1 as “Power Interconnections (including clearing for interconnections)” and constitutes a larger area of disturbance based on the extent of the “Limits of Disturbance” depicted in figures and spatial data. Please revise the description and calculation of the impact area to accurately reflect this activity and mitigation requirements pursuant to 19 NYCRR § 900-2.15 Table 1.

RESPONSE: The Applicant has included “grading” as part of the access road impact and/or POI substation impact as requested by ORES for wetland impacts to W-NSD-01 and its regulated wetland adjacent area and has updated **Revised Exhibit 14** to reflect these changes. The Applicant has updated Table 14-2 and provided **Revised Appendix 14-4** (Draft Wetland Mitigation Plan) to reflect these changes. With respect to the selective clearing in W-NSD-01, the Applicant respectfully disagrees that this impact should be considered clearing for interconnections and has provided a new Figure, **Figure 14-6** outlining a Draft Selective Tree Clearing Plan for this area.

b. Exhibit 14, Tables 14-1 and 14-2 indicate 0.0152 acres of impact from activity identified as “Access Roads” and 0.025 acres of wetland impact and 0.12 acres of adjacent area impact from “Other Activities Integral to the Project Involving Grading” to wetland W-KCF-13. However, Figure 14-2: Wetland W-KCF Proposed Impacts and spatial data indicate all disturbance is associated with the activity “Access Roads” consistent with 19 NYCRR § 900-2.15 Table 1, and constitutes a larger area based on the extent of “Limits of Disturbance” depicted in figures and spatial data. Please revise the description and calculation of the impact to reflect this activity and mitigation requirements pursuant to 19 NYCRR § 900-2.15 Table 1.

RESPONSE: The Applicant has updated the Tables in **Revised Exhibit 14** to outline the impacts to W-KCF-13. With the inclusion of the Amendment parcel, the Applicant was able to avoid all impacts to W-KCF-13 by removing an access road that previously crossed the wetland. There will be impacts to the wetland adjacent area from HDD pits and grading associated with an access road turnaround. The categorization of these impacts has been updated per ORES request.

Exhibit 15. Agricultural Resources

34. 19 NYCRR § 900-2.16(b)(1) requires “[f]ield-verified active agriculture land use... for three (3) of the last five (5) years.” Please provide spatial data of all field-verified active agriculture land use (including all lands involved in the production of crops, livestock, and livestock products for three (3) of the last five (5) years).

RESPONSE: The Applicant provided the spatial data of all field-verified active agricultural lands within the **updated spatial data geodatabase** provided to ORES via Confidential USB.

35. 19 NYCRR § 900-2.16(b)(5) requires “USDA soil mapping for the facility site...” and Section 5(4) of the Town of Glen Solar Law (2022) law, provides that “[a]rrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA [United States Department of Agriculture], NYS, or NRCS [the Natural Resources Conservation Service].” Please provide corresponding spatial (GIS) data for the claim on page 6 of Exhibit 15 that solar arrays are placed on 51.81 acres, or 15.74% of prime farmland soils within the Facility Site. Please cross reference Exhibit 24.

RESPONSE: The Applicant provided the spatial data for impacts to United States Department of Agriculture (USDA) soils within the **updated spatial data geodatabase** provided to ORES via Confidential USB.

36. 19 NYCRR § 900-2.16(c), requires the Applicant to submit an Agricultural Plan “to avoid, minimize, and mitigate agricultural impacts to 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.”

a. Please revise Appendix 15-3: Agricultural Plan to demonstrate how the Facility avoided potential significant adverse impacts to active agricultural lands within MSG 1-4 to the maximum extent practicable. Please describe how existing local law constraints; landowner, tenant farmer, and community feedback; site suitability characteristics; alternative site configurations; and additional resource impacts were considered in an iterative siting process and demonstrate how unavoidable impacts to agricultural resources will be minimized and mitigated, including but not limited to co-utilization.

RESPONSE: The Applicant provided **Revised Appendix 15-3**, Section 2 to further describe the iterative siting process and to demonstrate how unavoidable impacts to agricultural resources will be minimized and mitigated.

b. Please provide a table, and equivalent spatial data, to quantify the total area of active agricultural lands within MSG 1-4 relative to the fenced area, LOD, Facility Site, 5-mile study area, Town(s), County, and NYS in acreages and percentages; and include a Figure depicting these areas within the Facility parcels.

RESPONSE: The Applicant added a new table, Table 15-6 to Section 15(c) of **Revised Exhibit 15** to include the total active agricultural lands within MSG 1-4 with respect to various geographic areas requested above. New figure, **Figure 15-5**, depicts these areas within the Facility Site.

c. Please supplement Exhibit 15 with an itemization and acreages of permanent and temporary impacts to active agricultural lands within MSG 1-4:

- i. In the context of Exhibit 15, permanent impacts to agricultural resources generally include impervious surfaces and conversion to built facilities, such as inverter pads, constructed collector substation and POI switchyard, and constructed O&M Building. Temporary impacts to agricultural resources are limited to components proposed to be removed during decommissioning and site restoration consistent with the information provided in Exhibit 23, such as solar panels and racking equipment, fencing, and access roads. Please include the activities and acreages considered to be temporary or permanent in Table 15-4 and quantify the acreage of the LOD.

RESPONSE: The Applicant revised Table 15-4 in Section 15(a)(8) of **Revised Exhibit 15** to revise the temporary and permanent impacts to agricultural resources in the context of **Revised Exhibit 15**, as indicated above.

- ii. Please provide spatial data for the itemized permanent and temporary impacts to areas of active agricultural lands within MSG 1-4 and include the associated impact acreages in the attributes table.

RESPONSE: The Applicant provided spatial data for permanent and temporary impacts to active agricultural lands within MSG 1-4 in the **updated spatial data geodatabase** provided to ORES via Confidential USB.

Exhibit 16. Effects on Transportation

37. 19 NYCRR § 900-2.17(b)(3) requires “[a]n identification of potential approach and departure routes to and from the facility site for police, fire, ambulance and other emergency vehicles.”

- a. Please confirm whether all adjacent town roads are maintained year-round (i.e., not seasonal).

RESPONSE: The Applicant provided **Revised Exhibit 16**, Section 16(a) to confirm that all adjacent town roads are maintained year-round.

- b. Please provide a discussion on winter access for emergency responders. Without limitation, explain whether discussions with local emergency responders included a commitment to clear access roads after snow events.

RESPONSE: The Applicant provided **Revised Exhibit 16**, Section 16(b)(3) to provide a discussion on winter access for emergency responders.

Exhibit 17. Consistency with Energy Planning Objectives

38. 19 NYCRR § 900-2.18(g) requires “[a] statement of the reasons why the facility will promote public health and welfare, including minimizing the public health and environmental impacts related to climate change.” The Applicant has provided two separate methods for calculating CO2 emissions offsets by the proposed Facility and the average annual number of homes the Facility would power. Please provide a detailed explanation of the differences between these two methods, and a discussion of the accuracy of these estimates.

RESPONSE: The Applicant provided ***Revised Exhibit 17***, Section 17(g) to include a detailed explanation of the differences between the two methods for calculating the CO2 emissions offsets by the Facility, as well as a discussion of the accuracy of these estimates.

Exhibit 18. Socioeconomic Effects

39. 19 NYCRR §§ 900-2.19(a) and (c) require workforce estimates for construction and operation of the proposed Facility. Exhibit 18, page 2 provided estimates “based on experience with similar projects and the specific requirements of the Mill Point Solar I Project...” Please describe how “similar projects” were selected and the nature of the analysis.

RESPONSE: The Applicant provided ***Revised Exhibit 18***, Section 18(a) to remove the reference to “similar projects” and clarify that the workforce estimates for construction and operation of the proposed Facility are based on specific requirements for the Mill Point Solar I Facility.

40. 19 NYCRR § 900-2.19(g) requires “[f]or each jurisdiction, a description of the host community benefits to be provided, including an estimate of the incremental amount of annual taxes (and payments in lieu of taxes [PILOT], benefit charges and user charges) it is projected would be levied against the post-construction Facility Site, its improvements, and appurtenances, payments to be made pursuant to a host community agreement or other project agreed to with the host community.” Table 18-7 provides anticipated annual and 15-year combined PILOT and host community agreement (HCA) Payments. Please supplement Exhibit 18(g) Host Community Benefits with table(s), which includes, for each jurisdiction: the entity collecting taxes on behalf of each jurisdiction, the taxing rate of the jurisdiction, the incremental annual PILOT payments, the incremental annual HCA payments, the total 35-year tax payments expected to be made by the Facility, and the cumulative payments made pursuant to the HCA.

RESPONSE: The Applicant provided ***Revised Exhibit 18***, Section 18(g), Table 18-7 to provide the following information: anticipated annual and 15-year combined PILOT and HCA Payments, incremental annual PILOT payments, and property tax payments. Additionally, the Applicant provided a new Table 18-8 for anticipated annual incremental PILOT Payments for the Facility.

Exhibit 19. Environmental Justice

41. 19 NYCRR § 900-2.20(a) requires an evaluation consistent with the most up-to-date Potential Environmental Justice Areas (PEJAs) and statistical thresholds. Please revise the Exhibit 19 analysis to clearly indicate the acreage of 2020 New York State Department of Environmental Conservation PEJAs and non-PEJA areas within the Facility Site, LOD, and Environmental Justice (EJ) Study Area.

RESPONSE: The Applicant provided a **Revised Exhibit 19**, Section 19(a) and Section 19(b) to indicate the acreage of 2020 New York State Department of Environmental Conservation PEJAs and non-PEJA areas within the Facility Site, LOD, and Environmental Justice (EJ) Study Area. Additionally, the Applicant included a new Figure 19-3 to illustrate the 2020 PEJAs.

42. 19 NYCRR § 900-2.20(b)(2) requires a discussion of “...measures the applicant proposes to take to minimize such impacts to the maximum extent practicable... including a description of the manner in which such impact mitigation measures will be verified and a statement of the cost of such measures.” Please provide additional information and discussion relevant to the outreach to the Amish community within the PEJAs, concerns expressed by the community, and any specific mitigation or offset measures considered to minimize impacts on this community.

RESPONSE: The Applicant provided a **Revised Exhibit 19**, Section 19(a) to provide additional information and discussion relevant to the outreach to the Amish community within the PEJAs. In addition, **Revised Exhibit 2, Exhibit 7 (and Appendix 7-10), Revised Exhibit 8, and Revised Exhibit 16** discuss in length efforts made by the Applicant to communicate and outreach to the local Amish community, as well as minimize and mitigate impacts, including impacts to the Amish community.

43. Consistent with 19 NYCRR § 900-2.20(b), please update the evaluations in Exhibit 19 to identify and assess the nature and magnitude of potential and significant adverse disproportionate noise, visual, traffic or other impacts occurring within or impacting PEJAs, as compared to Facility areas located outside of PEJAs, resulting from the construction and operation of the proposed Facility. Please include supporting information, facts and figures, and provide the proportion of impacts occurring within the PEJAs and the proportion of impacts outside of PEJAs. Please include analysis of any minimization or mitigation measures proposed for unavoidable impacts consistent with 19 NYCRR §§ 900-2.20(b)(2) and (3), as necessary.

For example, and without limitation, please provide a comparison of traffic routes proposed through or adjacent to PEJAs; state whether the Facility substation, laydown yards, O&M Building, or other major components likely to contribute to noise, visual, traffic/dust or other impacts are sited in PEJAs; indicate whether PEJAs are proposed to receive a disproportionate percentage of noise, glare, or other visual impacts; and discuss the Applicant's proposed minimization and mitigation measures for any unavoidable impacts.

RESPONSE: The Applicant provided **Revised Exhibit 19**, Sections 19(b) and 19(c) to include discussion on impacts occurring within the PEJAs and outside of PEJAs.

Exhibit 20. Effect on Communications

44. 19 NYCRR § 900-2.21(a) requires “[a] detailed description of the proposed telecommunication interconnection, including all interconnecting facilities, line route, design details, size, functions, and operating characteristics.” Please provide additional details for the proposed telecommunication interconnection for the Facility, outlining the existing telecommunication facilities mentioned, the location of the proposed telecommunication point of interconnection, line route, design details, size, functions, and operating characteristics as required.

RESPONSE: The Applicant provided ***Revised Exhibit 20***, Section 20(a) to include additional details regarding the proposed telecommunication interconnection for the Facility.

45. 19 NYCRR § 900-2.21(d)(2) requires “[a] statement describing the anticipated effects of the facility and the electric interconnection... including the potential for... [s]tructures to block lines-of-sight...” Please supplement the narrative to include additional details including the maximum heights of Facility components at the collection substation and POI switchyard, as well as heights of the generation interconnection line between the two stations and the heights of the POI interconnection tie-in structures, including any potential for structures to block necessary communication lines-of-sight.

RESPONSE: The Applicant provided ***Revised Exhibit 20***, Section 20(2)(d) to include a new table, Table 21-1 which indicates the proposed height of Facility components.

Exhibit 21. Electric System Effects and Interconnection

46. 19 NYCRR § 900-2.22(a)(5) requires “[a] detailed description of the proposed electric interconnection, including... [t]he typical dimensions and construction materials of the towers...” Please supplement the narrative to provide details of the tower dimensions and construction materials for the overhead line between the collection substation and POI switchyard.

RESPONSE: The Applicant provided ***Revised Exhibit 21***, Section 21(a)(5) to provide details on the tower dimensions and construction materials for the overhead line between the substation and POI switchyard.

Exhibit 22. Electric and Magnetic Fields

47. 19 NYCRR § 900-2.23(d)(7) requires “a demonstration that the facilities... will conform with the Public Service Commission’s Statement of Interim Policy on Magnetic Fields... at the proposed ROW edges.” Exhibit 22(a), page 2 states that “[t]he results of the EMF Study conclude that the existing Edic-New Scotland #14 line and the proposed Marcy-New Scotland #18 3-pole configuration measures 202.457 mG at the edge of the existing ROW (175 feet from the centerline) during the winter short term (STE) loading conditions. This level exceeds the New York State Public Service Commission (NYSPSC) Interim Guideline of 200 mG by 2.457 mG for magnetic fields.” Please provide a discussion on potential mitigation options that were considered for reducing the magnetic field at the edge of ROW to comply with the NYSPSC Interim Guideline (e.g., increasing structure height or expanding ROW).

RESPONSE: The Applicant revised the high voltage design drawings (**Revised Appendix 5-3**, Sheet MPS-T-102-02) to increase the structure height of the 3-pole configuration from 195-feet-tall to 200-feet-tall. With this increase of the pole height, the 3-pole configuration measures 119.687 mG at the edge of the existing Right of Way (ROW) (175 feet from the centerline) during the winter short term (STE) loading conditions, which is within the Interim Guidelines of 200 mG for magnetic fields set forth by the New York State Public Service Commission (NYSPSC). See **Revised Exhibit 22** and **Revised Appendix 22-1**.

Exhibit 23. Site Restoration and Decommissioning

48. 19 NYCRR § 900-2.24(a) requires that the Decommissioning and Site Restoration Plan discuss, among other things, funding “...in the event the facility cannot be completed or after end of useful life of the facility.” Appendix 23-1: Decommissioning & Site Restoration Plan, page 7 states “[t]he decommissioning estimate also includes a 15% contingency to allow for soft costs (engineering, permitting, construction oversight, legal fees, etc.)...” Please revise this statement to clarify the purpose of the contingency in line with the Office’s regulatory requirements to calculate the contingency after summing all direct and indirect costs, and before inclusion of any salvage value credit. Please adjust the gross and net decommissioning estimates accordingly.

RESPONSE: The Applicant provided **Revised Appendix 23-1**, page 7 to indicate that the 15% contingency is attributable to ORES’s regulations.

49. 19 NYCRR § 900-2.24(a) requires that the Decommissioning and Site Restoration Plan discuss, among other things, potential future uses of the site. Please address the following:

a. Exhibit 23(3), page 3 states “[a]ccess roads will be removed unless the landowner requests the access road(s) remain” and “[u]nless the landowner requires removal of the installed landscaping modules surrounding the Facility, they will be left in place.” Please add “to the extent allowed by Federal, State, and Local laws.”

RESPONSE: The Applicant provided **Revised Exhibit 23** page 3 to add “to the extent allowed by Federal, State, and Local Laws.”

b. Exhibit 23(5), page 4 states “...previously forested lands may also be restored as a young-growth forest or converted to alternate land uses as appropriate.” Please revise this statement to comply with Town of Glen Solar Law Section 5(21)(ii) that states in part “...roadways must be removed and the property restored to preconstruction condition.”

RESPONSE: The Applicant provided **Revised Exhibit 23**, to clarify that the site will be restored to preconstruction conditions.

c. Exhibit 23, page 6 states “[r]emove circuit breakers and transport...” Elsewhere the Applicant states that the switchyard will be transferred to the Transmission Operator and will not be decommissioned. Please clarify and revise as necessary.

RESPONSE: The Applicant provided **Revised Exhibit 23**, page 6 to clarify that the circuit breakers will be removed from the substation as the switchyard will not be decommissioned.

d. In several instances in Exhibit 23 and Appendix 23-1: Decommissioning & Site Restoration Plan, it is unclear as to what extent the substation(s) will or will not be removed during decommissioning. For example, Section 1.1 of Appendix 23-1: Decommissioning & Site Restoration Plan lists project components but does not mention the substation. Please confirm whether the Applicant intends to remove the substation(s) during decommissioning and revise as necessary.

RESPONSE: The Applicant provided **Revised Exhibit 23** and **Revised Appendix 23-1** to clarify that the Applicant intends to remove all aboveground structures associated with the substation during decommissioning. The concrete piers below the substation will not be decommissioned and will remain in place upon decommissioning. This information is reflected in **Revised Exhibit 23** and **Revised Appendix 23-1**.

50. 19 NYCRR § 900-2.24(c) requires “[a] gross and net decommissioning and site restoration estimate...” Please update Exhibit 23 and Appendix 23-1: Decommissioning & Site Restoration Plan, to include the following or explain why the cost will not be incurred:

a. Direct costs:

- i. Removal and disposal of all collection substation infrastructure and restoration to preconstruction conditions.

RESPONSE: The Applicant revised the Decommissioning Estimate (**Revised Appendix 23-1**) to include the removal and disposal of all above ground substation infrastructure and restoration to preconstruction conditions.

- ii. Removal and disposal of the O&M Building and supporting water and wastewater systems, and restoration to preconstruction conditions.

RESPONSE: The Applicant revised the Decommissioning Estimate (**Revised Appendix 23-1**) to include the removal and disposal of the O&M Building and supporting water and wastewater systems, and restoration to preconstruction conditions.

- iii. Planting of tree species in an effort to reestablish forested areas.

RESPONSE: The Applicant revised the Decommissioning Estimate (**Revised Appendix 23-1**) to include the planting of trees (labor and materials) to reestablish forested areas.

- iv. Tipping fees for all waste materials (i.e. gravel, concrete, geotextiles, etc.).

RESPONSE: The Applicant revised the Decommissioning Estimate (***Revised Appendix 23-1***) to include the tipping fees from the Montgomery County Solid Waste 2024 Rate Schedule.

- v. Disconnection, removal, and disposal of high voltage "Gen-tie" line between collection substation and switchyard.

RESPONSE: The Applicant revised the Decommissioning Estimate (***Revised Appendix 23-1***) to include the disconnection, removal, and disposal of the high voltage "Gen-tie" line and associated utility poles between the substation and POI switchyard.

b. Indirect costs:

- i. Engineering fees.

RESPONSE: The Applicant revised the indirect costs in the Decommissioning Estimate (***Revised Appendix 23-1***) to include engineering fees.

- ii. Permitting fees.

RESPONSE: The Applicant revised the indirect costs in the Decommissioning Estimate (***Revised Appendix 23-1***) to include permitting fees.

- iii. Temporary Office space (i.e. trailer).

RESPONSE: The Applicant revised the indirect costs in the Decommissioning Estimate (***Revised Appendix 23-1***) to include a temporary office trailer.

- iv. Oversight fees throughout the duration of construction (superintendent, foreman).

RESPONSE: The Applicant revised the indirect costs in the Decommissioning Estimate (***Revised Appendix 23-1***) to include fees for a field management superintendent, foreman, and an environmental monitor.

- v. Repair of damage to public roads.

RESPONSE: The Applicant revised the indirect costs in the Decommissioning Estimate (***Revised Appendix 23-1***) to include costs to repair damage to public roads.

51. Appendix 23-1: Decommissioning & Site Restoration Plan at Line 21 includes a credit for module trim salvage. Please clarify whether the intent is for panel commodity materials other than aluminum trim to cancel panel disposal costs, and state what those materials are and provide market prices and any labor or processing costs required to isolate the material.

RESPONSE: The Applicant provided **Revised Exhibit 23**, Section 23(a)(4). Section 3.4 of **Revised Appendix 23-1** and the decommissioning cost estimate to include language on the credit for module trim salvage.

Exhibit 24. Local Laws and Ordinances

52. 19 NYCRR § 900-2.25(a) requires “[a] list of all local ordinances, laws, resolutions, regulations, standards and other requirements applicable to the construction or operation of the facility... that are of a substantive nature...” Exhibit 24 identifies substantive provisions of the “Town of Glen Land Use Management Ordinance (2006)” applicable to the substation and O&M Building.

a. Appendix 24-1: Town of Glen Code, contains the Town of Glen Code, which is dated 2004 and includes Chapter 87 Land Use Management with pages dated 09-01-2006, while Appendix 24-2: Town of Glen Land Use Management Ordinance contains the Town of Glen Land Use Management Ordinance, with a Local Law Filing cover page dated June 15, 2006 for Local Law No. 1 of the year 2006, A local law to Amend the Code of the Town of Glen by adding a new Chapter 87 to be entitled "Land Use Management." Please clarify which version of the Land Use Management law controls and use the appropriate citation format.

RESPONSE: Appendix 24-1 includes a copy of the Town of Glen Code that can be found on the Town's website <https://www.co.montgomery.ny.us/web/municipal/glen/documents.asp>. A review of the DOS on-line local law database does not include an original filed copy of the 2004 Town of Glen Code. The Applicant assumes the Town replaced Chapter 87 with the 2006 Land Use Management Ordinance when uploading the Town Code to the Town website but does not have any insight into the date differences. Appendix 24-2 is a copy of the Land Use Management Law filed with DOS in 2006. In June 2024, the Town voted to adopt a new Land Use Management Local Law (provided as **Appendix 24-2-A**). The Applicant has updated **Revised Exhibit 24** of the Application to reflect this newly adopted Land Use Management Law.

b. Please update Exhibit 24 to address all such applicable substantive local laws, including but not limited to Town of Glen Land Use Management Ordinance (2006) Sections 4.01.B.27 and 28; Section 6.05.4.j (third and fourth sentence); and Section 6.10 (as numbered in the version provided in Appendix 24-2: Town of Glen Land Use Management Ordinance).

RESPONSE: Sections 4.01.B.27 and 28 of the Town of Glen Land Use Management Ordinance (Appendix 24-2) have been updated in the newly adopted Land Use Management Law (see **Appendix 24-2-A**). Section 4.01.B.45 of the newly enacted Town of Glen Land Use Management Law now states that large-scale solar energy systems are permitted by special permit in the Rural Residential District. This is consistent with Section 5, subsection 1 of the of the Glen Solar Law (Appendix 24-3) which states Large Scale Utility solar energy systems are allowed in Rural Residential, Industrial and Commercial Districts upon site plan review and approval and the issuance of a special use permit by the Town Planning Board. Therefore, the Applicant has included a reference to Section 4.01.B.45 of the Town of Glen Land Use Management Law (see **Appendix 24-2-A**). Nevertheless, the Land Use Management Law and Solar Law state essentially the same thing, the Facility which is a Large-Scale Solar Energy System are permitted in the Rural Residential District as special permit uses.

Section 6.05 of the Town of Glen Land Use Management Law (see **Appendix 24-2-A**) includes the submission requirements for site plan approval which are applicable to Large Scale Utility solar energy systems in addition to the requirements of Glen Solar Law, Section 5, subsection 6 (Appendix 24-3). However, these procedural provisions of both local laws are supplanted by the ORES regulations. Nevertheless, the Applicant has updated **Revised Exhibit 24** to note that the Applicant will comply with Section 6.05.4.j (third and fourth sentence) which requires “there will be no increase in runoff from the site. The use of ponds, dry wells, etc. shall be used, but all sites shall have zero increase in runoff so as not to disturb neighboring properties.” The Applicant has provided a preliminary Stormwater Pollution and Prevention Plan (SWPPP) as **Revised Appendix 13-3** of this Application.

Section 6.10 of the Town of Glen Land Use Management Law (see **Appendix 24-2-A**) includes the considerations the Planning Board shall make when reviewing and issuing special permits. The special permit process is a procedural process supplanted by the ORES regulations. Nevertheless, the Applicant has added a statement of the special exemption criteria to **Revised Exhibit 24**, Section 24(f).

c. Exhibit 24(b), page 5 states “[t]he Facility’s O&M building will be served by individual water and septic systems.” Please address the applicability of Town of Glen Land Use Management Ordinance (2006) Section 7.23 Wells and Septic Systems (as numbered in the version provided in Appendix 24-2: Town of Glen Land Use Management Ordinance). In addition, please clarify whether these are proposed or existing systems and if they are intended to be public or private systems. If the latter, please confirm that installation of private systems is permitted (i.e., parcel is not in water district) or provide cross reference to this information.

RESPONSE: Revised Exhibit 24 has been updated to include Section 7.23. Any well or septic systems will be at least 50 feet from the property line. The Applicant confirmed that the Parcel hosting the O&M facility is not supplied by public water system and is not within the Town water district according to County GIS data.

53. 19 NYCRR § 900-2.25(c) requires “[a] list of all local substantive requirements... for which the applicant requests that the Office elect not to apply to the facility. ...For each local substantive requirement identified by the applicant, a statement justifying the request shall be provided. The statement of justification shall show with facts and analysis the degree of burden caused by the requirement, why the burden should not reasonably be borne by the applicant, that the request cannot reasonably be obviated by design changes to the facility, that the request is the minimum necessary, and that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable...” Please revise the statements of justification contained in Appendix 24-5: Statement of Justification to include all required supporting information, facts, and analyses, and clarify the extent to which relief is sought, i.e., whether it is full or limited, and specifically address the following:

RESPONSE: The Applicant is seeking relief as described in **Revised Appendix 24-5**, the extent of the relief is as fully described in **Revised Appendix 24-5**. Nevertheless, the Applicant provided language at the beginning of each waiver request identifying if the waiver requested was a full, limited or partial request. The Applicant used the term “full” when requesting a waiver to the totality of the section of the local law as outlined in Exhibit 24 Appendices. The term “partial” is used for when the Applicant is asking for a waiver for part of a local law. The term “limited” is used when the Applicant is requesting a waiver on specific parcels or resources, dependent on the wording of the local law.

a. Where applicable, provide the approximate loss of acreage and the approximate loss of generating capacity that would result from full compliance with the respective local law.

RESPONSE: Revised Appendix 24-5 has been updated to ensure each request includes the approximate loss of acreage and the approximate loss of generating capacity for each request. To comply with all local laws, would effectively prevent the Facility from being built, in which case all 250 megawatts (MW) would be lost.

b. For each request for relief, describe how the Applicant’s iterative siting process considered avoidance and minimization of existing resources resulting in the current proposed layout and need for requested relief.

RESPONSE: Revised Appendix 24-5 has been updated to further describe the iterative process the Applicant followed to site the Facility.

c. Where applicable, describe whether full compliance with this requirement would result in potential impacts to existing resources, citing specific examples from other exhibits and figures. Where applicable, if a Facility parcel includes areas without any constraints, but does not contain Facility components, please provide supporting facts and analysis as to why components were not sited on those areas.

RESPONSE: *Revised Appendix 24-5* has been updated to provide specific examples of potential impacts to existing resources. In addition, *Revised Appendix 24-5* and *Revised Figure 5* have been updated and a new figure, *Figure 6* has been created to explain why components are not sited in areas without Facility components, but within the Facility Site. This language has been added within the new siting discussion referenced in Deficiency 53(a).

d. For requests grounded in existing technology, provide a demonstration that there are technological limitations that make compliance impossible or impractical.

RESPONSE: For each waiver request related to the design of the Facility the Applicant has explained why the local requirements limit the design of the Facility and would prevent the Facility from being built as proposed resulting in the loss of renewable energy or is otherwise unreasonable given the design of the Facility (e.g. site restoration for buried utilities). The Applicant has updated *Revised Appendix 24-5* to provide additional details regarding the basis for the requests. The Applicant's request for waivers overall is grounded in the need to balance local requirements with broader environmental and regulatory objectives, including real property and environmental constraints and achieving the Climate Leadership and Community Protection Act (CLCPA) mandates.

e. For requests grounded in factors of cost or economics, provide economic modeling, tables, or cost analyses to demonstrate that the cost to consumers associated with applying the local law requirements would outweigh the benefits of applying such provisions.

RESPONSE: For each waiver request grounded in factors of cost or economics the Applicant has explained why the local requirements costs outweigh the benefits of applying such provision. The Applicant has updated *Revised Appendix 24-5* to provide additional details regarding the basis for the requests. The Applicant's request for waivers overall is grounded in the need to balance local requirements with broader environmental and regulatory objectives, including real property and environmental constraints and achieving the CLCPA mandates.

f. Regarding relief request A, Section 5(2)(b)(i), Setback requirements:

i. Appendix 24-5: Statement of Justification, pages 5 and 8, respectively, states "[r]emoving this land from buildable area eliminates at least 117.7 MW of generation capacity of Mill Point Solar I..." and "[m]oreover, to maintain the proposed 250 MW capacity, Mill Point Solar I would have to obtain approximately 158 additional acres of buildable land..." Please provide supporting facts and analysis for these statements.

RESPONSE: The Applicant has added language to *Revised Appendix 24-5* and created a new Table, Table 1, outlining parcel by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

- ii. Please provide supporting facts and analysis, including a parcel-by-parcel breakdown of buildable area and other constraints, for the statement on page 7 of Appendix 24-5: Statement of Justification that “[t]he request is the minimum necessary as the Applicant has designed the Facility to comply with the 500-foot setbacks to the maximum extent practicable.”

RESPONSE The Applicant has added language to **Revised Appendix 24-5** and created a new Table, Table 1, outlining parcel by parcel consideration for implementation of this local law.

- iii. In Figure 5, please clarify what the “panel exclusion areas” represent.

RESPONSE: The Applicant provided **Revised Figure 5** of **Revised Appendix 24-5** to add a footnote indicating that Panel Exclusion Areas (PEAs) represent areas within the Facility Site where the Applicant lacks necessary real property rights to install photovoltaic (PV) panels. The Applicant does not own these parcels nor has the Applicant secured the rights from the landowner to use these areas for PV panel installation and/or areas where the Applicant agreed not to site panels based on feedback from the Town of Glen and the local community. In addition to PEAs, several parcels within the Facility Site are designated for collection only and the Applicant also does not have real property rights to install photovoltaic (PV) panels on these parcels. In addition, the Applicant created a new figure, **Figure 6** outlining the different types of PEAs. This language was also added to **Revised Appendix 24-5**.

- g. Regarding relief request B, 5(2)(b)(iii), Setbacks for wetlands, ponds and streams:

- i. Appendix 24-5: Statement of Justification, pages 11-12 states, “[o]verall, the Facility would lose 13.4 MW if panels were required to be removed and comply with this local law. Figures 1 and 5 demonstrate the areas where wetlands have been avoided and where impacts are unavoidable.” Please provide supporting facts and analysis and revise Figure 5 as necessary.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new Table, Table 2, outlining a feature-by-feature consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

- ii. Appendix 24-5: Statement of Justification, pages 10-11, Table 1 includes only wetlands and streams. Please address the applicability of this relief request to ponds.

RESPONSE: Language has been added to the waiver request (**Revised Appendix 24-5**) for Town of Glen Solar Law (2022) Section 5(2)(b)(iii). Setbacks for wetlands, ponds, and streams to address the need for a waiver for ponds. The Applicant provided a wetland delineation report for the Facility Site, see Appendix 14-1 of **Revised Exhibit 14**. Any ponds that were delineated during that survey are considered palustrine unconsolidated bottom wetlands (PUB). Table 2 has been updated to reflect PUBs/ponds.

- h. Regarding relief request C, 5(2)(c)(a), Maximum lot coverage:

- i. Please provide supporting facts and analysis for the summary percent coverage amounts for various tilt scenarios discussed on page 14 of Appendix 24-5: Statement of Justification and please provide the tax map numbers for parcels referenced in this section.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new Table, Table 3, outlining a parcel-by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

- i. Regarding relief request D, Section 5(4), Agricultural Resources: Appendix 24-5: Statement of Justification, pages 17-18, Table 2 includes 21 parcels, however the preceding paragraph states, “[t]able 2 outlines the 25 parcels...”. Please revise Table 2 or clarify accordingly and identify the parcels for which relief is requested. Please update any other Exhibits including without limitation Exhibit 15 and Exhibit 15, Table 15-2.

RESPONSE: The Applicant has clarified the text in **Revised Appendix 24-5** and **Revised Exhibit 15** with respect to active agricultural land use in the Facility Site. The tables now reference all Facility Site parcels regardless of whether they are hosting panels or collection line only.

- i. Appendix 24-5: Statement of Justification, page 19 states “[o]f the 1,018.22 acres of active agricultural land within the Facility fenced area, only 130.87 acres (12.85 percent) will be converted from agricultural during the life of the Facility.” Please reference the specific exhibit sections and figures that depict the 130.87 acres. Please provide the specific iterative siting process and supporting facts and analysis as to why the 130.87 acres could not be sited on non-agricultural areas.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** on the siting process as well as additional details in Revised Table 4 to address this comment. A reference to Sections 15(a)(1), 15(a)(4), 15(a)(7), 15(a)(8), 15(b)(6), and 15(c) of **Revised Exhibit 15** has also been added. **Revised Appendix 15-3** explains the iterative siting process employed to avoid agricultural areas.

j. Regarding relief request E, Section 5(5)(a), Slope:

- i. Appendix 24-5: Statement of Justification, page 21 states, "...complete avoidance of all slopes greater than 15 percent results in an additional significant reduction of buildable area for panel placement." Please provide supporting facts and analysis, including the acreage of buildable area that would be eliminated.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new Table, Table 6, outlining a parcel- by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

- ii. Appendix 24-5: Statement of Justification, page 22 states that "[c]omplete avoidance of slopes greater than 15 percent for panel arrays would cause islands of unusable land, causing more than just a 9-acre impact..." Please provide additional supporting facts and analysis for such impacts across the Facility.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 6, outlining a parcel- by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

- iii. Appendix 24-5: Statement of Justification, page 22 states, "[w]ith this data, the Applicant avoided siting trackers on slopes that exceeded 15 percent. However, in select instances, the end of a tracker overlaps..." Please provide additional context for this statement including supporting facts and analysis.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 6, outlining a parcel- by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements.

k. Regarding relief request F, Section 5(5)(c), Clear cutting, please clarify how Figure 5 depicts information relevant to the following statements and provide additional supporting facts and analysis:

- i. Appendix 24-5: Statement of Justification, page 24 states "[p]rohibiting tree clearing over 9 acres would make at least 91.31 acres of land in the Facility Site unbuildable for solar, eliminating at least 12.5 MW of energy generation capacity if not more."

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 7, outlining a parcel- by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements. In addition, the Applicant has added forested areas as a buildable area constraint to **Revised Figure 5** of **Revised Appendix 24-5** and provided the calculation for the acreage referenced in this comment.

- ii. Appendix 24-5: Statement of Justification, page 25 states "[t]his clearing is needed to maintain capacity and ensure the Facility can be efficiently sited on the parcels hosting components."

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 7, outlining a parcel- by parcel consideration for implementation of this local law. These additions provide supporting facts and analysis for these statements. Due to other siting constraints some tree clearing will be required to design this Facility with the parcels hosting components. The Applicant has provided supporting information on how the Facility was designed to avoid and minimize impacts to forested land.

- iii. Appendix 24-5: Statement of Justification, page 25 states that "...the Applicant has limited tree clearing to only what is necessary for the construction and operation of the Facility and has largely avoided clearing trees in core forest blocks."

RESPONSE: **Revised Figure 4** in **Revised Appendix 24-5** outlines the forest block areas in the Facility Site and shows the areas where clearing is proposed to construct the Facility. This Figure shows that forest blocks are being avoided and that clearing is on the edge line or along existing hedgerows.

I. Regarding relief request G, Section 5(21)(ii), Site restoration for buried utilities:

- i. Please provide supporting facts and analysis, concerning: the typical depth of burial for direct-buried lines, as Appendix 5-1: Design Drawings only gives minimum depths; the estimated total length of collector line to be left in place; and the additional number of truck trips that would be needed to comply.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 8, outlining a parcel- by parcel consideration for implementation of this local law. Table 8 outlines the length of the bore; location of the bore; and the sensitive resource being protected by use of the bore. Language was also added describing typical depth of an HDD.

- ii. Appendix 24-5: Statement of Justification, page 27 states that "[f]ew Facility components will be buried at a depth of greater than 48 inches; the components that would exceed that depth are primarily horizontal directional drilled (HDD) or bored collection lines crossing beneath roadways, wetlands, or other sensitive features. Removal of HDD lines... would result in significant impacts..." Please provide a table of HDD locations and the resource(s) protected by each bore.

RESPONSE: The Applicant has added language to **Revised Appendix 24-5** and created a new table, Table 8, outlining a parcel-by-parcel consideration for implementation of this local law. Table 8 outlines the length of the bore; location of the bore; and the sensitive resource being protected by use of the bore. Language was also added describing typical depth of an HDD.

- iii. Appendix 24-5: Statement of Justification, page 27 states that “[t]he disadvantage of removing bored collection lines involves risk, as the conduit can break or separate at a joint when being pulled out of the ground.” Please provide supporting references for this statement or cite to a document prepared by a qualified professional.

RESPONSE: The Applicant provided **Revised Appendix 24-5** to provide further information on the risks of removing bored conduit. This information was provided by a project engineer.

- iv. Please provide additional discussion of the Applicant’s efforts to minimize this relief request beyond compliance with the NYSAGM Guidelines.

RESPONSE: The Applicant provided **Revised Appendix 24-5** to include the Applicant’s efforts to minimize this relief request beyond compliance with the New York State Department of Agriculture and Markets (NYSAGM) Guidelines.

m. Regarding Relief Request I, Section 7.16, Public Utility:

- i. Appendix 24-5: Statement of Justification, page 33 states that “[i]n installing the gen-tie underground would result [in] increased wetland impacts and would be multiple times more expensive than running the line overhead...” Please provide facts and analysis to support this statement.

RESPONSE: The Applicant has added information to **Revised Appendix 24-5** to support the claim that constructing the gen-tie line underground would result in increased wetland impacts and would be more expensive to construct.

- ii. Appendix 24-5: Statement of Justification, page 34 states that “...it is anticipated that the proposed POI components will be visually absorbed by the existing and adjacent Marcy – New Scotland 345 kV transmission structures...” Please provide facts and analysis to support this statement, or cross reference such analysis in other exhibits.

RESPONSE: The Applicant has added reference to the **Revised Appendix 8-1** (the VIA) in Section 10.1.2 and new photo simulations showing the POI components and the results of the visual analysis (See **Revised Appendix 8-1**, Attachment 3).

54. 19 NYCRR § 900-2.25(d) requires “[a] summary table of all local substantive requirements... and a discussion or other showing demonstrating the degree of compliance with the substantive provisions...”

a. Please provide an expanded narrative describing the degree of compliance with Glen Solar Law Sections 4(a)(3), (5), and (6).

RESPONSE: The Applicant has added additional information and references to other portions of the Application to Table 24-1 in **Revised Exhibit 24** to address this comment.

b. Regarding Glen Solar Law Section 5(12), please demonstrate the degree of compliance as it relates to heat.

RESPONSE: The Applicant revised Section 1.1.2 of the VIA (**Revised Appendix 8-1**) to include research-based evidence for how large solar projects affect heat levels. Additionally, the Applicant updated **Revised Exhibit 24**, Table 24-1. List of Applicable Substantive Requirements to the Project and Plans to Adhere to the Requirements to reference project compliance with this local law.

c. Regarding Glen Solar Energy Law Section 5(21)(ii), please demonstrate the degree of compliance with the other applicable substantive provisions that are not included in the relief request.

RESPONSE: The Applicant provided **Revised Exhibit 24**, Table 24-1 to include information demonstrating compliance with the other provisions of this section, including the requirement to restore the site within 12 months through reference to **Revised Appendix 23-1**.

d. Regarding the degree of compliance with Glen Land Use Management Ordinance § 5.01 (as numbered in Appendix 24-2: Town of Glen Land Use Management Ordinance) bulk and area requirements for public or private utility with and without building, please provide the lot coverage calculations.

RESPONSE: The Applicant provided **Revised Exhibit 24**, Table 24-1 to include lot coverage calculations.

55. 19 NYCRR § 900-2.25(e) requires “[i]dentification of the city, town, village, county, or State agency qualified by the Secretary of State that shall review and approve the building plans, inspect the construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing or building code... including arrangements made to pay for the costs thereof including the costs for any consultant services necessary due to the complex nature of such facilities.” Please provide a statement identifying the preliminary arrangement made between the Applicant and the Town code enforcement officers to pay for the costs of code review.

RESPONSE: The Applicant has updated **Revised Exhibit 24** to indicate they will arrange to pay for consultant services for the Town.

56. 19 NYCRR § 900-2.25(f) requires “[a]n identification of the zoning designation or classification of all lands constituting the facility site and a statement of the language in the zoning ordinance or local law by which it is indicated that the facility is a permitted use at the facility site. If the language of the zoning ordinance or local law indicates that the facility is a permitted use at the facility site subject to the grant of a special exception, a statement of the criteria in the zoning ordinance or local law by which qualification for such a special exception is to be determined.”

a. Please revise Exhibit 24(f) to be consistent with Glen Solar Law Section 5(1) and provide a statement of the special exception criteria.

RESPONSE: See Response to 52(b) above.

b. Exhibit 24(d), page 19 states that the Facility O&M Building “...will be designed to comply with the ‘Public or private utility facility with building’ requirements... [and] [t]he Facility substation and POI switchyard’s will be designed to comply with the ‘Public or private utility facility without building’ requirements...” Please address the applicability of Town of Glen Land Use Management Ordinance (2006) Sections 401.B.27 and 28, and Section 6.10 (as numbered in the version provided in Appendix 24-2: Town of Glen Land Use Management Ordinance).

RESPONSE: See Response to 52(b) above. The Applicant also provided **Revised Exhibit 24** to include a discussion of the Land Use Management Law and its potential applicability to the Interconnection Facilities and Operations and Maintenance Building.

Spatial Data

Spatial Data. Provide feature layers depicting property/ROWs for all proposed transmission lines and interconnection facilities.

RESPONSE: The Applicant has provided the requested information within an **updated spatial data geodatabase** which is provided to ORES via Confidential USB.

Spatial Data. Provide a polygon feature layer with the location of the Maintenance Building (O&M Facility).

RESPONSE: The Applicant has provided the requested information within an **updated spatial data geodatabase** which is provided to ORES via Confidential USB.

Spatial Data. Provide a polygon feature layer containing current (2022) tax parcel boundaries for all properties that the applicant has title or leasehold interest. Indicate parcel status in the attribute table and retain all parcel attributes provided in the original feature layer.

RESPONSE: The Applicant has provided the requested information within an **updated spatial data geodatabase** which is provided to ORES via Confidential USB.

Spatial Data. Geotechnical exploratory boring locations.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial Data. Regulated 100-foot wetland adjacent area.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial Data. Active agriculture land use (including all lands involved in the production of crops, livestock, and livestock products for three (3) of the last (5) years).

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial Data: Active agricultural lands within MSG 1-4.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial data. Temporary and Permanent impacts, including an attribute table that lists each impact and acreage, to active agricultural lands within MSG 1-4.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial data. Provide a feature layer depicting the approach and departure haul routes to and from the Facility.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Spatial data. Provide feature layers for all features depicted in any Exhibit 24 figure, including but not limited to Appendix 24-5.

RESPONSE: The Applicant has provided the requested information within an ***updated spatial data geodatabase*** which is provided to ORES via Confidential USB.

Comments Received from the Town of Glen on the Preliminary Stormwater Pollution Prevention Plan (SWPPP) (05/06/2024)

1. Section 4.0 SWPPP Amendments contains the following statement: “This Preliminary SWPPP is being submitted as part of the Facility’s Section 94-c application and includes design and calculations for the anticipated stormwater management practices. This Preliminary SWPPP will be amended as necessary prior to Facility construction to detail the final proposed stormwater management practices to be installed (Final SWPPP). The Final SWPPP shall detail proposed stormwater management practices and provide stormwater analysis and design information. The Final SWPPP submitted as a Compliance Filing prior to construction of the Facility.” We request that the Final SWPPP be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant provided a Preliminary Revised Stormwater Pollution Prevention Plan (SWPPP) (see ***Revised Appendix 13-3***) based on the Facility design as outlined in the Application, in accordance with Section 900-2.14(c). However, the New York State Department of Environmental Conservation (NYSDEC) retains its federally delegated authority to ultimately issue the State Pollutant Discharge Elimination System (SPDES) permit for the Facility. To obtain a SPDES permit, the Applicant will prepare a Final SWPPP prior to the commencement of construction. See 900-10.2.

2. Section 5.0 Facility Site Information contains the following statement: “The Facility Site consists of approximately 2,670.84 acres, of which approximately 1,224.6 acres are anticipated to be disturbed. The existing groundcover of the Facility Site is composed primarily of agricultural lands and forest.” Additional information is required to be stated to check for compliance with the following Town of Glen Solar Law sections:

- A. Section 5.2.c.a. stating the maximum lot coverage is 20%. Applicant shall state the lot coverage percentage.

RESPONSE: See ***Revised Exhibit 24*** and ***Revised Appendix 24-5*** for more information related to the Facility’s compliance with local requirements.

- B. Section 5.3. requiring “Tree removal shall be minimized and replacing, to the extent practicable, at the discretion of the Planning Board, should be considered on parcels where a large number of mature trees (over six inches diameter at breast height) are being removed in order to install solar arrays.” and Section 5.5.c which prohibits “Clear cutting of more than 9 acres of trees that are six inches diameter at breast height.” Applicant shall state the number of acres of tree clearing proposed for the project.

RESPONSE: See ***Revised Exhibit 24*** and ***Revised Appendix 24-5*** for more information related to the Facility’s compliance with local requirements.

3. Table 1 – Soils within the Facility Site in Section 5.1 Soils Classification lists several soil classifications that have slopes between 15 to 20 percent and on the has slopes between 25 to 60 percent. Section 5. Large Scale (Utility) solar energy system in the Town of Glen Local Law No. 5 of 2022 also known as the “Solar Energy Facilities Law of the Town of Glen”, subsection 5.a prohibits Large Scale (Utility) solar energy systems on land that has slopes greater than 15%.

RESPONSE: See **Revised Exhibit 24** and **Revised Appendix 24-5** for more information related to the Facility’s compliance with local requirements.

4. Section 5.2 Wetlands and Waterbodies contains the following statement: “Impacts to state jurisdictional wetlands and state-jurisdictional regulated adjacent areas are anticipated as a result of the Facility. The Client anticipates compensatory mitigation will be required to offset the impacts to wetland areas as a result of construction. A Wetland Restoration and Mitigation Plan will be developed for the Facility outlining the proposed compensatory mitigation plan, mitigation activities and potential locations, and long-term mitigation site protection and management.” We request that the Wetland Restoration and Mitigation Plan be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: As provided in sections 900-2.15(g) and 900-10.2(f)(2) a copy of the final Wetland Restoration and Mitigation Plan will be prepared and submitted as a compliance filing. See the Mill Point Solar I Draft Wetland Mitigation Plan included in **Revised Appendix 14-4**.

5. Section 5.5 Environmental Resource Information contains the following statement: “Based on the Determination of Occupied Habitat, Incidental Take, and Net Conservation Benefit issued by ORES, the Facility is anticipated to have greater than a de minimis impact on occupied habitat for state-listed grassland bird species, therefore a Net Conservation Benefit Plan (NCBP) will be prepared for the Facility in consultation with ORES to provide proposed mitigation actions to offset potential impacts to species.” We request that the Net Conservation Benefit Plan be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: On behalf of the Applicant, TRC prepared a Draft NCBP for the Facility, which is included as **Revised Appendix 12-6**. The Applicant is still pursuing potential mitigation options via a third-party mitigation provider; therefore, mitigation site details are unknown currently. The Applicant is committed to providing a Final NCBP with mitigation details for ORES review and approval prior to the commencement of construction activities within grassland bird habitat. The Applicant requests ORES to include a site-specific condition regarding mitigation requirements in the permit and proposes the following:

Final Net Conservation Benefit Plan (NCBP) – Consistent with 19 NYCRR § 900-10.2, the Permittee shall submit a final NCBP, developed in consultation with the Office.

6. Section 5.5 Environmental Resource Information contains the following statement: “A review of the NYS Office of Parks Recreation and Historic Preservation (OPRHP) Cultural Resources Information System (CRIS) database indicates that portions of the Facility Site are located within an archaeologically sensitive area. The OPRHP records confirm there are no NRHP-listed or eligible for listing archaeological sites within the area of potential effect for archaeological resources. Three previously recorded OPRHP archaeological sites and one cemetery are present within the Facility Site. Additional archaeological surveys and consultation with OPRHP is ongoing.” We request that the archeological surveys be completed and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: On behalf of the Applicant, TRC conducted a Phase IA and Phase IB archaeological survey within the Facility Site and submitted the associated reports to the OPRHP and ORES for review. Copies of the archaeological survey reports are included in **Revised Appendix 9-1**, and associated correspondence with OPRHP is included in **Revised Appendix 9-2**.

7. Section 8.0 SWPPP Construction Requirements and Sequencing mentions restoring disturbed soils per NYSDEC standards and specifications. As the majority of the project is impacting agricultural properties, the restoration requirements of NYS Department of Agriculture and Markets (NYSDAM) Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands should also be required and referenced.

RESPONSE: To the maximum extent practicable, the Facility will comply with the NYSAGM Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands requirements, dated October 18, 2019 (Guidelines) for construction, restoration, monitoring and remediation, and decommissioning as detailed below. For a detailed analysis of Facility compliance, see the Agricultural Plan, prepared by the Applicant and included in **Revised Appendix 15-3**. The Applicant has added a statement to Section 8.0 of the Preliminary Revised SWPPP (**Revised Appendix 13-3**) to reference NYSAGM Guidelines.

8. Section 8.0 SWPPP Construction Requirements and Sequencing contains the following statement: “The Facility anticipates disturbance of greater than five acres at any one time throughout construction. As such, a Five-Acre Disturbance Waiver Request will be prepared and submitted to the NYSDEC for approval in accordance with the General Permit requirements. A Phasing Plan will be prepared for the Facility as part of the Five-Acre Waiver Request to detail the maximum disturbed area and amount of cut/fill required per phase. A copy of the Request and the Phasing Plan shall be provided in Appendix D.” We request that the Phasing Plan and Five-Acre Disturbance Waiver Request be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. The Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include the Phasing Plan and Five-Acre Disturbance Waiver Request to be reviewed and approved by NYSDEC. See 900-10.2.

9. Section 9.1 Potential Impacts for Stormwater Contamination includes the requirement to employ the Construction Site Entrance detail to prevent vehicles leaving the facility site from tracking soil onto public roadways. It should be noted that the Town of Glen will not allow the Applicant to use Town roads that are unpaved or otherwise unsuitable for heavy equipment due to the potential for damage to the roads, ditches and culverts and the associated stormwater impacts from sediment and silt laden stormwater.

RESPONSE: Comment noted. There are no unpaved public roads within the Facility Site. The Applicant intends to enter into a Road Use Agreement with the Town for Town roads to be used to access the Facility. See **Revised Exhibit 16** for additional information.

10. Section 9.3.2 Temporary Spoil Stockpiling contains the following statement: “A spoil disposal plan shall be developed prior to excavation, including the proposed quantities of spoil and the proposed location(s) and procedures for disposal.” We request that the Spoil Disposal Plan be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: This is not an official Plan for the Project but instead a procedure for how spoil disposal will occur. This procedure will be developed in the Final SWPPP prior to construction of the Facility. The Applicant has updated Section 9.3.2 of the Preliminary Revised SWPPP (see **Revised Appendix 13-3**) to clarify this.

11. Section 10.2.1 Water Quality Volume (WQv) Analysis references the summary of required WQv for each subcatchment that is provided in Appendix J. The table is missing the Slope, HSG and Width data for the following subcatchments: AR-300, AR-400, AR-600, AR-601, AR-602, AR-603, AR-700, AR-900, AR-1003A, AR-1100, AR-1200, AR-1300, AR-1301, AR-1303, AR-1304, AR-1400, AR-1600, AR-1800, AR1801, AR-1802, AR-1803, and AR-1804.

RESPONSE: Information regarding slope, HSG, and width apply to filter strip sizing and not to stabilized roads or infiltration trenches and therefore has not been added to the table as requested. The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. To obtain a SPDES permit, the Applicant will prepare a Final SWPPP prior to the commencement of construction. See 900-10.2.

12. At the end of the WQv table in Appendix J, there is information regarding a vegetated filter strip. There are no units of measurement stated for the columns with headings HSG C and HSG D. The units need to be added to the table.

RESPONSE: That vegetated filter strip table was used as an internal reference during design and was included in error. The Applicant has deleted this page, as it is unnecessary in the Preliminary Revised SWPPP (see **Revised Appendix 13-3**).

13. Section 10.2.2 Runoff Reduction Volume (RRv) Analysis states that “infiltration trenches are proposed to capture and treat the required WQv and RRv for the Facility.” The infiltration trench requirements in the NYS Stormwater Design Manual (SWDM) include the following items, which need to be added to the SWPPP:

- a. To be suitable for infiltration, underlying soils shall have an infiltration rate (f_c) of at least 0.5 inches per hour, as confirmed by field geotechnical tests. The minimum geotechnical testing is one test hole per 5000 sf, with a minimum of two borings per facility (taken within the proposed limits of the facility). As there are 38 infiltration trenches proposed, a total of 76 borings need to be performed and the results provided.

RESPONSE: The infiltration trenches outlined in the above comment are located around equipment skids and are less than 18 inches in depth. One of the NYSDEC approved methods of treatment for these areas is evaporation, as outlined in the Preliminary Revised SWPPP.

The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. The Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include testing and data outlined in this comment. which require review and approval by NYSDEC. See 900-10.2.

- b. Soils shall also have a clay content of less than 20% and a silt/clay content of less than 40%. Sample test results need to be provided.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue SPDES permit for the Facility. The Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include testing and data outlined in the above comment. which require review and approval by NYSDEC. See 900-10.2.

- c. The bottom of the infiltration facility shall be separated by at least three feet vertically from the seasonally high water table or bedrock layer, as documented by on-site soil testing. This data needs to be provided.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. The Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include testing and data outlined in the above comment. which require review and approval by NYSDEC. See 900-10.2.

- d. Infiltration trenches shall not be constructed until all of the contributing drainage area has been completely stabilized. This language should be added to the construction sequence section of the SWPPP. All of the above items must be provided to confirm that the proposed stormwater design is feasible for the site(s) and is required by the SWDM.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. The Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include sequencing outlined in this comment. which require review and approval by NYSDEC. See 900-10.2.

14. Table 11 – Peak Runoff Rates and Volumes, located in Section 10.2 Runoff Analysis, presents the Pre-Development Rate (cfs) and Post-Development Rate (cfs) for the 1-Year, 10-Year and 100-Year Storm event for each of the fifty-six (56) study points. The following study points have at least one of the three (3) post-development runoff rates that is greater than the pre-development runoff rate: SP5, SP14, SP21, SP22, SP24, SP31, SP32, SP43, SP49, SP50, and SP54. The stormwater design to these eleven (11) studies points will need to be redesigned to ensure the post-development runoff rate for each discharge point is less than the pre-development runoff rate. SP15 and SP16 are missing from the table and need to be added.

RESPONSE: Upon review of the runoff models, it was determined that the slight overages reported were the result of minor discrepancies or inconsistencies between the pre- and post-development model inputs. Resolving these issues brought the design into compliance with the Town of Glen ordinance. Therefore, in order to address the Town's concerns on the pre-development and post-development runoff rates in the Preliminary Revised SWPPP, the Applicant reviewed the Runoff Analysis and provided updates to Table 11, Peak Runoff Rates and Volumes. Updates were made to more than the requested study points (SP) in the comment. To address these results, no new subcatchment basins were required. Specifically on the SP's requested, the following updates/explanation are provided:

SP5, SP14, SP22, SP24, SP43, SP50 and SP54 analyses were updated to ensure that post-development rates were lower than pre-development rates. SP 21, SP31, and SP32 were removed from the table as they were incorrectly provided and are not part of the analysis. In addition, SP15 and SP16 do not exist in the analysis and therefore do not require updating based on the comment.

15. Section 10.2 Runoff Analysis contains the following statement: “Nineteen detention basins are proposed within the Facility Site to provide for the temporary storage of stormwater runoff and reduce downstream water quantity impacts. The detention basins provide stormwater quantity controls for the 1, 10 and 100-year storm events. Outlet control structures will be utilized to manage discharge from the detention basins. Emergency spillways will be used to allow excess stormwater to discharge from the detention basin for storm events exceeding the 100-year storm event. The detention basins sizing will be finalized prior to construction during final site design.” We request that the final design of the 19 detention basins be completed and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see ***Revised Appendix 13-3***) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. To obtain a SPDES permit, the Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include the final design of the retention basins. See 900-10.2.

16. Section 10.2 Runoff Analysis contains the following statement: “The SMPs proposed within this Preliminary SWPPP are anticipated practices to be installed at the Facility. These practices will be modified as necessary for the Final SWPPP prior to Facility construction.” We request that the final design of the final SMPs be completed and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant provided a Preliminary Reviewed SWPPP (see ***Revised Appendix 13-3***) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. To obtain a SPDES permit, the Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include the final SMPs. See 900-10.2.

17. Section 11.1 Management of Spills and Releases should be revised to include the emergency contact information of at least two (2) different spill response / cleanup companies.

RESPONSE: The Applicant will identify the spill response / cleanup companies and will include their contact information in the final Spill Prevention, Control and Countermeasure (SPCC) Plan, which will be filed prior to the commencement of construction.

18. Section 11.1 Management of Spills and Releases contains the following statement: “Specific quantities cannot be estimated until construction methodology and contractor(s) are secured for construction.” We request that a rough estimate of each potential pollutant be prepared and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant will have available on-site a current SPCC plan along with applicable Safety Data Sheets (SDS) during construction and operation.

19. The Notice of Intent (NOI) included in Appendix A is blank and it is stated that “the NOI will be completed in the Final SWPPP prior to construction.”. We request that the NOI be completed

and provided for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: The Applicant provided a Preliminary Revised SWPPP (see **Revised Appendix 13-3**) based on the Facility design as outlined in the Application, in accordance with section 900-2.14(c). However, the NYSDEC retains its federally delegated authority to ultimately issue the SPDES permit for the Facility. To obtain a SPDES permit, the Applicant will prepare a Final SWPPP prior to the commencement of construction, which will include the Notice of Intent (NOI). Since the Facility design is currently under development and modification, a completed NOI has not been prepared at this time. The Final SWPPP and approved NOI will be made available on-site during construction. See 900-10.2.

20. Appendix E – Geotechnical Engineering Report

- a. Section 1.2 Scope of Services contains the following statement: “Exploration of subsurface conditions by drilling thirty (30) borings spread across the proposed solar array areas, drilling two (2) additional test borings within the proposed substation areas, and retrieving soil samples for classification & laboratory testing.” We do not believe that 32 soil borings taken on a project site covering almost 3,000 acres provides enough field information to provide an accurate depiction of the soil conditions that may be found. We request that the applicant prepare a detailed plan to perform at least 60 additional soil borings to properly characterize the site in addition to the 76 borings needed to confirm that the infiltration trenches can be used at the site and provide for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: In response to the request for additional test borings, the number of test borings performed onsite was in general accordance with standards of practice in geotechnical engineering for solar developments. Based on the previous geotechnical exploration, the subsurface soil conditions were grouped into 5 distinct zones or based on the general soil classifications and associated physical and engineering properties recommended for preliminary design. The Applicant’s geotechnical engineer supports that 30 test borings is sufficient for the preliminary design of PV array supports and ancillary equipment in the absence of any critical building or other occupied structures and is consistent with the standards of practice for projects of similar size and type. Soil conditions and recommended design parameters will be further refined during the Pile Load Testing program and Final Geotechnical Survey to be performed prior to commencement of construction.

In response to the comment on the number of infiltration test borings, for shallow trench depths on the order of 80 inches or less, the Natural Resource Conservation Service (NRCS) of the USDA’s Web Soil Survey ([usda.gov](https://websoilsurvey.sc.egov.usda.gov/)) is a reliable resource for identifying near surface soil conditions and correlations for general drainage capacity. Test borings or test pits in conjunction with borehole infiltration testing in general accordance with NYS Stormwater manual procedures are typically reserved for larger infiltration areas.

- b. Section 3.1 Corrosion Evaluation contains the following statement: “Based on these results and the resistivity correlations presented in Table 4, the corrosion potential to buried metallic improvements may be characterized a ranging from moderately corrosive to severely corrosive.” We request that the applicant prepare a detailed plan to address the corrosion potential of the metal posts and provide for review by all interested or involved parties prior to ORES approval of the project.

RESPONSE: While there are some basic approaches to corrosion evaluation and protective measures, such as the use of galvanized posts or the consideration of section loss over the service life to verify that the posts maintain a sufficient size , this is something that the racking designer will evaluate during their structural design prior to the Issue for Construction (IFC) design.

21. Appendix I – Post-Construction Stormwater Operation and Maintenance (O&M) Manual

- a. Section 1.0 Introduction does not mention that stormwater detention basins are part of the design.

RESPONSE: Appendix I of ***Revised Appendix 13-3*** has been updated to include stormwater detention basins.

- b. Section 3.0 First Year Maintenance states that it is required to: “Water vegetation once every three days for the first month, then provide a half inch of water per week during the first year.” We request the applicant detail how this requirement will be achieved.

RESPONSE: The Applicant will contract a third-party vendor to water vegetation as necessary or will self-perform. Watering will be adjusted to account for natural rain events.

- c. Section 5.0 Winter Maintenance mentions the use of de-icing materials including sand, “environmentally friendly” chemical products and salt mixtures. None of these products are effective or recommended for use on limited use pervious access roads or agricultural lands.

RESPONSE: Plowing and shoveling will be used as necessary for winter maintenance access across the Facility Site. Winter maintenance access within array areas will be infrequent, therefore minimal snow and ice removal will be required. Should de-icing methods be required for access during winter, ConnectGen will work with state agencies to determine which de-icing material may be used. Appendix I, Section 5.0 of ***Revised Appendix 13-3*** has been amended to reflect this approach.

22. Appendix L – Post-Development Subcatchment Map (Sheets MPS-C-202-01 through MPS-C-202-56)

- a. The plans show a 100' front and rear lot setback and a 50' side lot setback, however, the Town of Glen Solar Energy Facilities Law Section 5.0.2.b.i. requires side, front and rear lot setbacks to be 500'. We request that the plans be revised to conform with the Town Law.

RESPONSE: See *Revised Exhibit 24* and *Revised Appendix 24-5* for more information related to the Facility's compliance with local requirements.

- b. The front setback on some drawings appears to only be shown as 25'. See prior comment.

RESPONSE: See *Revised Exhibit 24* and *Revised Appendix 24-5* for more information related to the Facility's compliance with local requirements.

- c. The Town of Glen Solar Energy Facilities Law Section 5.0.2.b.iii. requires "The setbacks for wetlands, ponds, stream are 100 feet except where streams and or wetlands may need to be crossed by access roads or underground or above ground utilities.", however, only a 25' setback from these natural features is shown on the plans. We request that the plans be revised to conform with the Town Law.

RESPONSE: See *Revised Exhibit 24* and *Revised Appendix 24-5* for more information related to the Facility's compliance with local requirements.

- d. Numerous drawings show that the temporary turn-around at the end of dead-end access roads is to be removed and restored to reduce the projects construction disturbance. Section 4.A.7. of the Town's Solar Law requires "All areas of the proposed project shall be readily accessible for fire, emergency services and police protection." The applicant needs to detail and describe how emergency vehicles will be able to access and withdraw from the site.

RESPONSE: The project design includes permanent cul-de-sac turnarounds compliant with Appendix D of the NYS Fire Code for all Facility access roads. The Applicant will work with local emergency services personnel on safety response training including accessing the Facility during an emergency.

Comments Received from Montgomery County

See *Revised Exhibit 24* and *Revised Appendix 24-5* for more information related to the Facility's compliance with local requirements.