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EXECUTIVE DIRECTOR

**Mill Point I Solar Project
Town of Glen, Montgomery County
Permit Application No. 23-00034**

**Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit
August 3, 2023**

Wildlife Site Characterization

In compliance with 19 NYCRR § 900-1.3(g)(2), ConnectGen Montgomery County LLC (Applicant) provided a draft Wildlife Site Characterization Report for the proposed Mill Point I Solar Project, Town of Glen, Montgomery County, New York dated April 2021. This report, together with the avian surveys referenced below, have been provided to the Office of Renewable Energy Siting (the Office or ORES) and the New York State Department of Environmental Conservation (NYSDEC), in connection with the Applicant's pending facility siting application to the ORES permitting process at Executive Law §94-c and 19 NYCRR Part 900.

Avian and Other Wildlife Surveys

The Applicant provided a Breeding Bird Survey Report for the Mill Point Solar Project, dated September 2021; a State-Listed Wintering Grassland Raptor Survey Report 2020-2021 Survey Report for the Mill Point Solar Project, dated May 2021; and a Wintering Grassland Raptor Survey for the Mill Point II Solar Project, dated June 2022. The Applicant completed the associated breeding bird surveys from May 2021 – July 2021. The Applicant completed the associated winter grassland raptor surveys from November 16, 2020 – April 15, 2021 and December 15, 2021 – April 14, 2022.

The Office, in consultation with NYSDEC, has accepted these studies for purposes of the review required by §900-1.3(g)(5).

Determination

Pursuant to §900-1.3(g)(7), the Office, in consultation with the NYSDEC, has completed a review of this information and hereby provides its draft determination regarding whether occupied habitat for one or more New York State (NYS) threatened or endangered species exists within the facility site, the boundary of the occupied habitat, whether de minimis levels as provided in § 900-2.13 might be attainable for grassland birds and, if applicable, the amount of mitigation funding that may be necessary if impacts cannot be avoided or mitigated.

Northern Long-eared Bat

The facility site is not within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site. To avoid and minimize impacts to northern long-eared bat, project construction shall adhere to the Uniform Standards and Conditions (see §900-6.4(o)(4)(iii)(c)).

Indiana Bat

The facility site is not within two and a half (2.5) miles of maternity roost sites nor within 2.5 miles of a hibernaculum or bachelor colonies.

Bald Eagle

There are no known bald eagle nests within the project area or within one-quarter (0.25) mile of the project area.

Grassland Birds

The proposed facility site overlaps with occupied habitat for [REDACTED] ORES in consultation with NYSDEC has determined that the Mill Point I Solar Project is estimated to adversely impact 1051.67 acres of occupied wintering habitat for [REDACTED] and 432.34 acres of occupied wintering habitat for [REDACTED]. The Applicant shall avoid potential significant adverse impact(s) to these habitats to the maximum extent practicable. If the Applicant can demonstrate that full avoidance of potential significant adverse impact(s) to these habitats is not practicable, the Applicant is required to develop and submit a Net Conservation Benefit Plan (NCBP) to minimize or mitigate any remaining potential significant adverse impact(s) to these habitats for the proposed Facility. See 19 NYCRR §§ 900-2.13(d) and (f).

To avoid and minimize impacts to occupied grassland habitat, construction shall also adhere to the Uniform Standards and Conditions (see §§ 900-6.4 (o)(3)(i)-(vii)). To avoid direct impacts to individual listed grassland birds during construction and to mitigate impacts to occupied grassland habitat, the Applicant shall adhere to the Uniform Standards and Conditions (see §§ 900-6.4 (o)(3)(viii) and (ix)). Attachments A and B summarize the areas of potential occupied habitat taken within the proposed facility site and the amount of mitigation potentially required.

Other State-listed Species

The following NYS species of special concern are confirmed to be present within the proposed facility site: [REDACTED]. Pursuant to § 900-2.13(d), the Applicant shall identify and evaluate avoidance and minimization measures to be incorporated in the facility design, as well as any unavoidable potential impacts to these species.

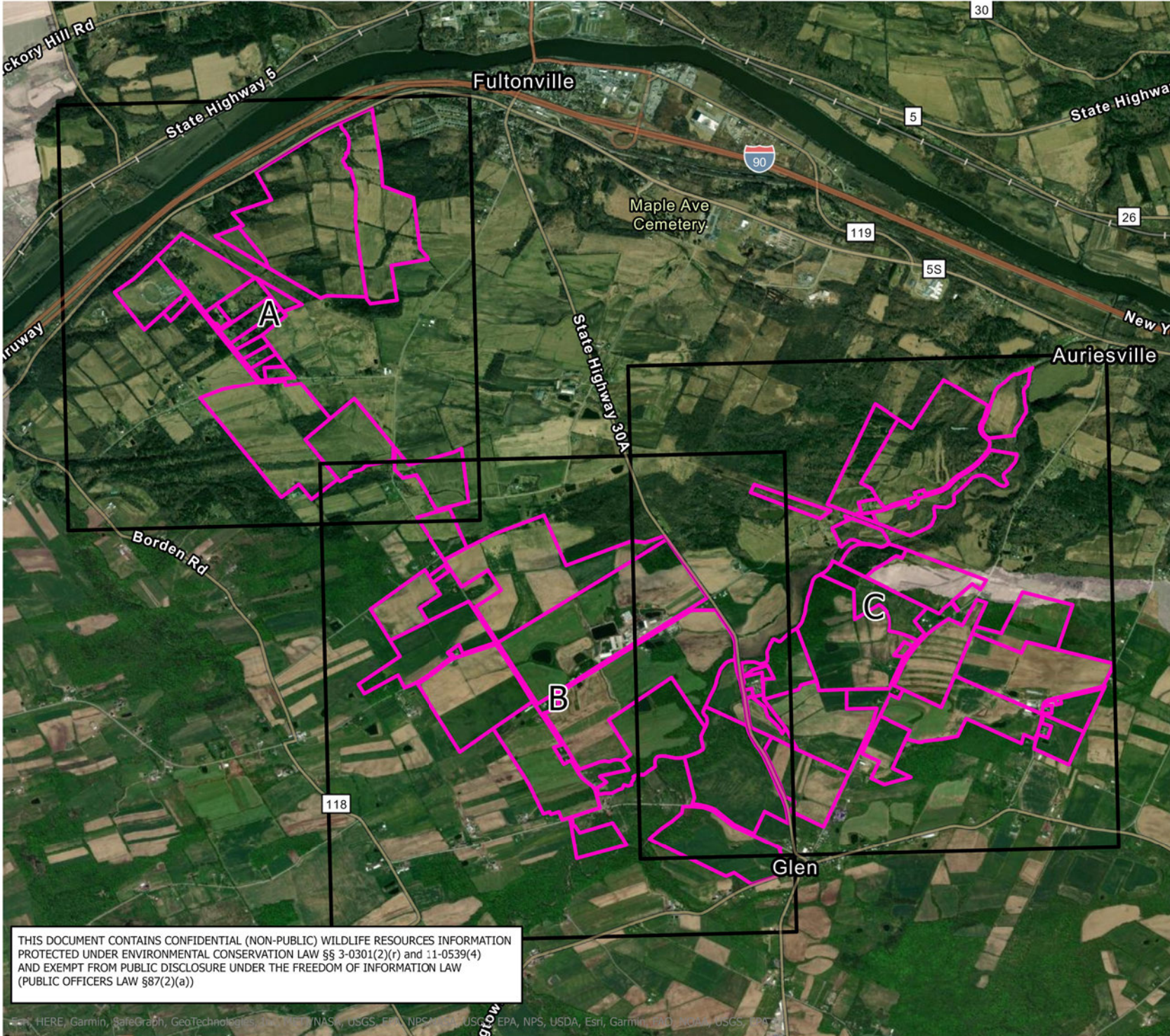
Please note, this Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit is subject to revision if the Facility design and layout is altered from its presentation to the Office as of the date of this letter. In compliance with §900-1.3(g)(8), the Applicant shall provide the Wildlife Site Characterization Report, habitat assessment and/or survey reports, and Net Conservation Benefit Plans as part of Exhibit 12 (§900-2.13) in support of an application to the Office for a major renewable energy facility.

As a reminder, the Applicant must also provide a written explanation of how the Facility design first avoids and then minimizes impacts to the identified NYS threatened or endangered or species of special concern to the maximum extent practicable. Unavoidable adverse impacts shall be summarized by species impacted and include an assessment of the acreage and/or an estimate number of individual members of each such species affected. See 19 NYCRR § 900-2.13(d).

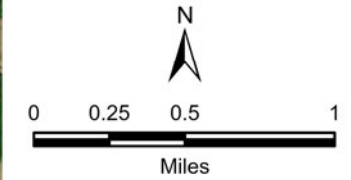
Please note that the basis for the Office's draft determination regarding occupied habitat and potential take for this project only applies to major renewable energy facilities covered by Section 94-c of New York Executive Law. This determination is valid for a period of five years from the date of this letter. This determination may be subject to additional review if changes are made to the anticipated facility plan. Please contact the Office before an application is filed if any such changes are made, or additional pre-application consultation is required.

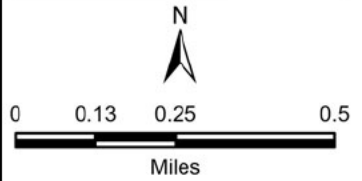
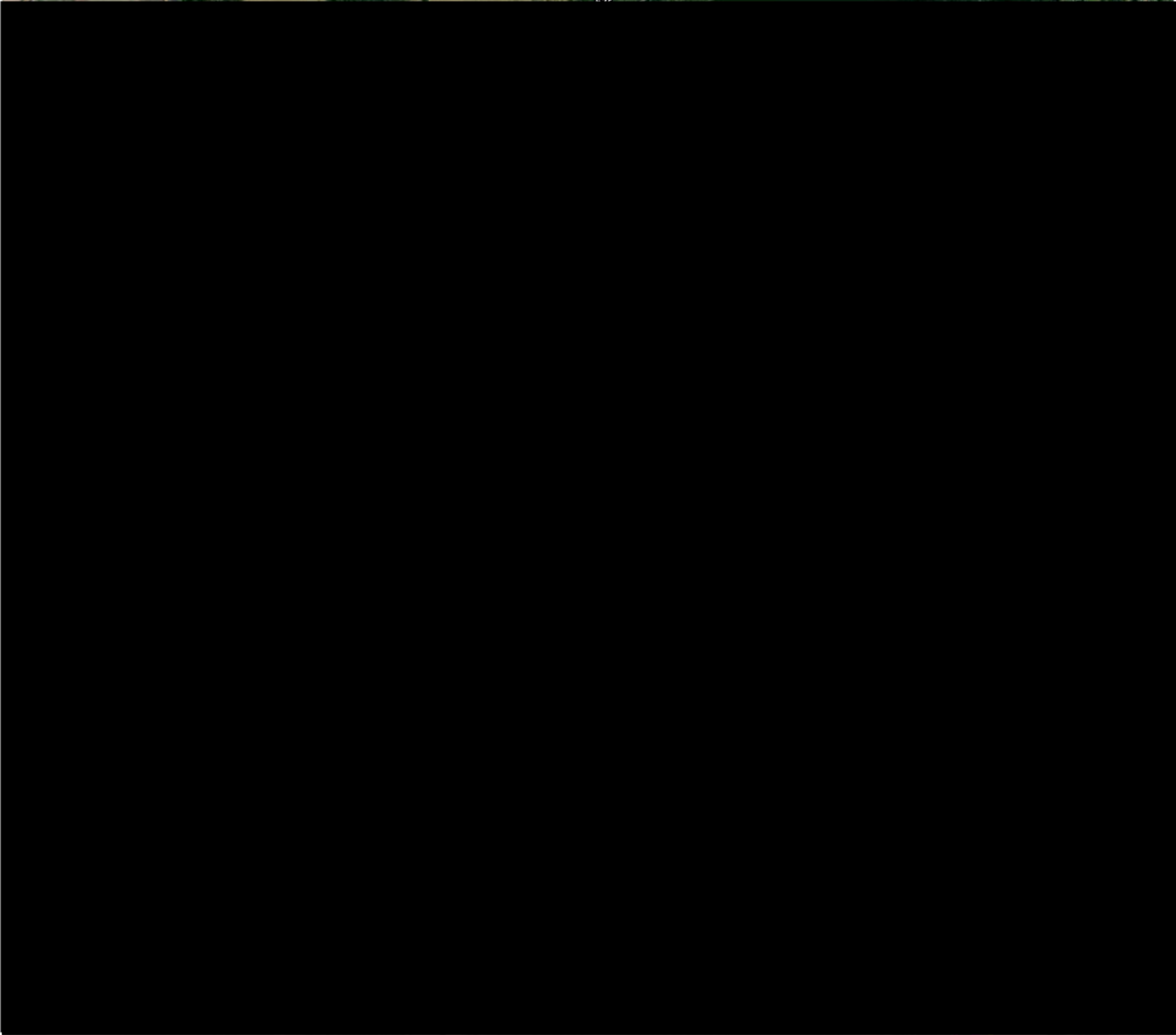
ATTACHMENT A – ORES TAKE DETERMINATION MAP SERIES

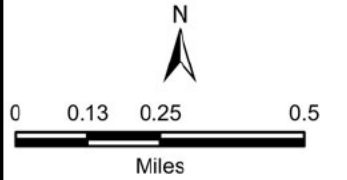
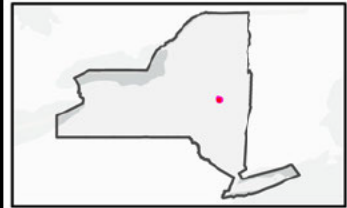
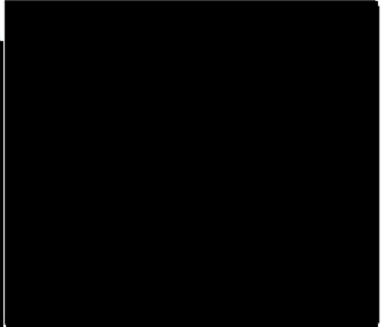
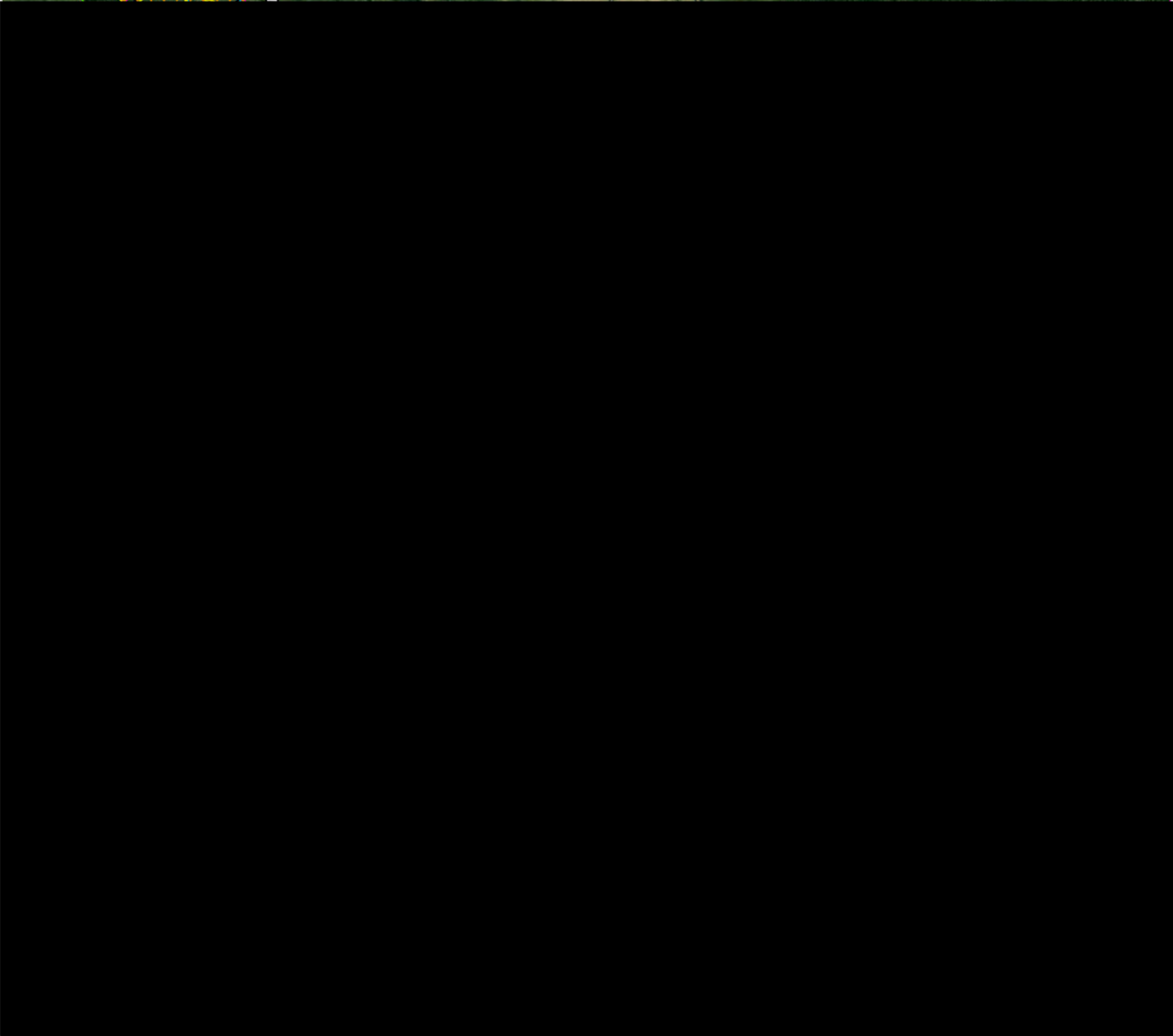
ATTACHMENT B – ORES OCCUPIED HABITAT FIELD BY FIELD ANALYSIS TABLE

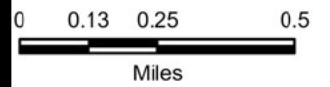
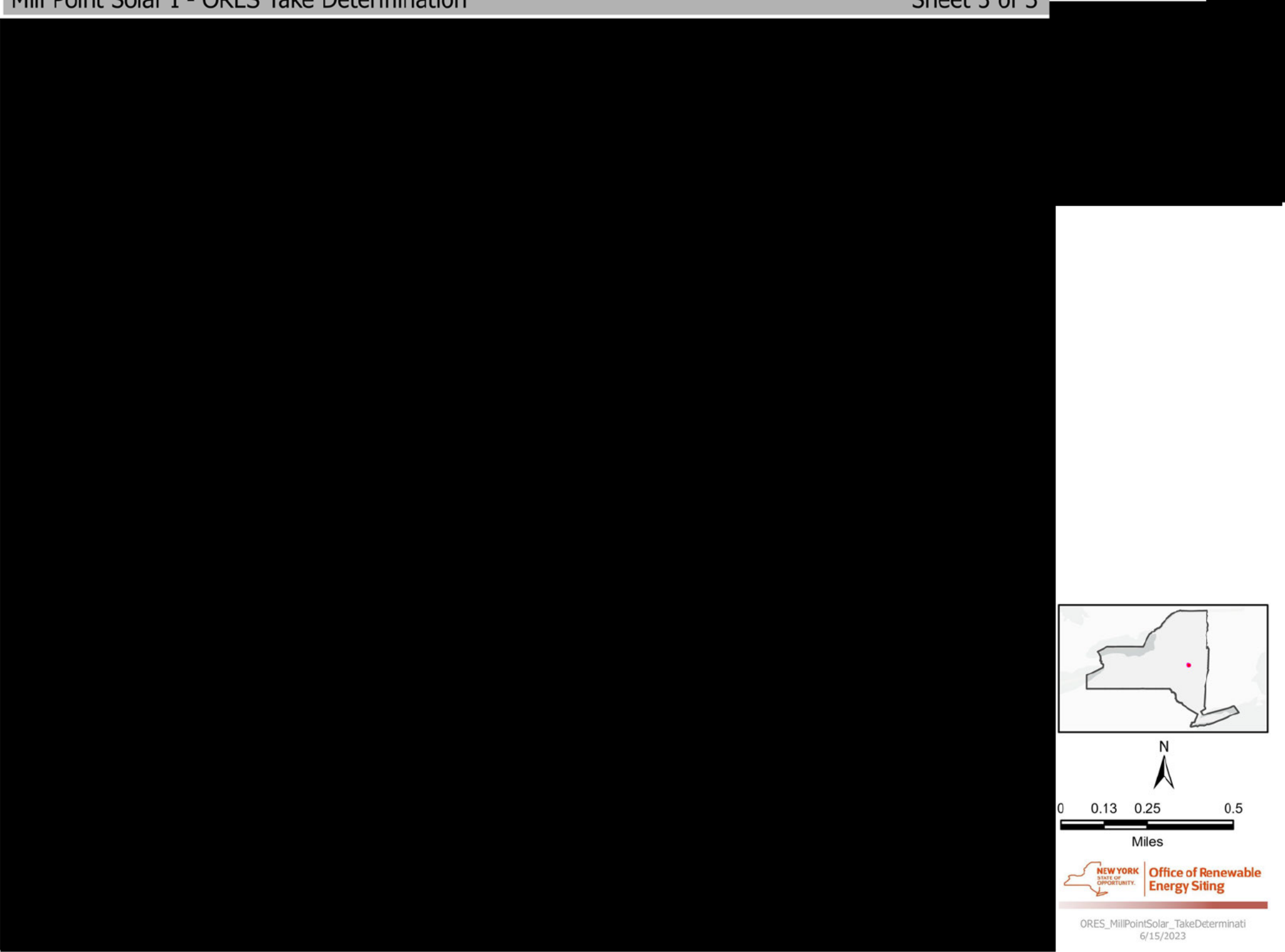


THIS DOCUMENT CONTAINS CONFIDENTIAL (NON-PUBLIC) WILDLIFE RESOURCES INFORMATION PROTECTED UNDER ENVIRONMENTAL CONSERVATION LAW §§ 3-0301(2)(r) and 11-0539(4) AND EXEMPT FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION LAW (PUBLIC OFFICERS LAW §87(2)(a))









Mill Point Solar I - Field By Field Take Analysis						
Applicant Identified		ORES Take Determination				
Field ID	Occupied Habitat Status	Occupied Habitat Status	Occupied Habitat Taken (Acres)			ORES Comments & Justification (include survey effort, data summary, habitat notes, etc.)
Field ID for open field within Facility Site. Attach figure.	Essential behavior exhibited by ETS within identified field: wintering, breeding, both, or none					
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