STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 19-T-0041 - Application of Canisteo Wind Energy, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII.

ORDER ADOPTING JOINT PROPOSAL AND GRANTING CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED, WITH CONDITIONS

Issued and Effective: August 11, 2022

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on August 11, 2022

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

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(Issued and Effective August 11, 2022)

BY THE COMMISSION:

I. INTRODUCTION

In this order, we adopt the March 18, 2022 Joint Proposal agreed to by all parties and grant Canisteo Wind Energy, LLC (Canisteo Wind), a Certificate of Environmental Compatibility and Public Need (Certificate), pursuant to Public Service Law (PSL) Article VII. This Certificate authorizes Canisteo Wind to construct, own, operate, and maintain a transmission interconnection line extending from the Canisteo Wind Farm facility (Wind Facility), through a collection substation located in the Town of Jasper, to the New York State Electric and Gas (NYSEG) Bennett substation (the Project).

II. PROJECT BACKGROUND AND DESCRIPTION

Canisteo Wind seeks a Certificate pursuant to PSL Article VII for construction, ownership, operation, and maintenance of a major electric transmission facility (Transmission Facility) located in the Towns of Canisteo, Hornellsville, and Jasper, the City of Hornell, and the Village of Canisteo, Steuben County. The Transmission Facility is an integral part of Canisteo Wind's 290.7 megawatt electric generating wind facility (Wind Facility) that was conditionally approved by the New York State Board on Electric Generation Siting and the Environment (Siting Board) by order dated March 13, 2020.[1]

Canisteo Wind's Transmission Facility consists of a dual circuit transmission cable, a 34.5/115 kilovolt (kV) collection substation near County Route 63 and North Road in the Town of Jasper, Steuben County, an interconnection switchyard, and a 115-kV electric transmission line.[2] The Transmission Facility's dual circuit electric transmission cable will run from a collection substation[3] for approximately 14.6 miles to the point of interconnection switchyard, where it will connect with

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[1] Case 16-F-0205, Application of Canisteo Wind Energy, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction and Operation of the Canisteo Wind Energy Center Project in Steuben County, Order Granting Certificate of Environmental Compatibility and Public Need, With Conditions (issued March 13, 2020).

[2] Hearing Exhibit 106 (Supplemental Application Exhibit 2, Location of Facilities), p. 1.

[3] The collection substation will step up electrical voltage generated by the wind turbines from 34.5 kV to 115 kV.

the existing NYSEG Bennett Substation on Route 36 in the Town of Hornellsville.[4]

The Transmission Facility right-of-way will be located on private property, with easement rights provided to Canisteo Wind by landowners. The collection substation will be built on land to be purchased by Canisteo Wind, on which there is an existing purchase option.[5] The point of interconnection switchyard will be constructed on land owned by NYSEG, which is located adjacent to vacant land and to State Route 36, where transmission facilities are a locally permitted use.[6] Construction of the Transmission Facility will require the installation of steel monopoles, wood H-frame structures, and wood 3-pole structures at approximately 106 locations along the transmission route. Construction also necessitates permanent clearing of vegetation, grading, and other changes to natural areas and/or man-made structures.[7] No undergrounding of any part of the Facility is proposed.[8]

III. PARTIES TO THE PROCEEDING

In addition to Canisteo Wind, the active parties to this proceeding include Staff of the Department of Public Service Trial Staff (DPS Staff), the Department of Environmental Conservation (DEC Staff), the Department of Agriculture and

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[4] The existing Bennett Substation requires the addition of a 115 kV breaker, ancillary equipment, and associated metering for interconnection purposes. Hearing Exhibits 106 and 115 (Supplemental Application Exhibits 2 and 5).

[5] Joint Proposal, ¶ 23, p. 11.

[6] Joint Proposal ¶ 22, p. 10.

[7] Hearing Exhibits 106-107 (Supplemental Application Exhibit 2 and Figure 2-1) (showing areas where permanent clearing and other landscape changes will be made).

[8] Hearing Exhibit 21 (Application Exhibit E-3).

Markets (AGM Staff),[9] and local resident James Koegel, who resides in the Town of Canisteo. Each of these parties executed the Joint Proposal, although Mr. Koegel's agreement is limited to only the issues he raised in the proceeding related to the Project's impact on his property.

IV. PROCEDURAL HISTORY

On January 14, 2019, Canisteo Wind filed its application for a Certificate pursuant to PSL §122 (Application) along with a motion seeking waiver of certain regulatory requirements related to the New York State Department of Transportation maps showing the transmission line rights-of-way, existing facilities, points of interconnection, and alternative routes, all of which are required as a part of an Article VII application.[10] On May 17, 2019, the Commission issued an Order granting the waiver requests set forth in the motion.

In a May 17, 2019 letter, the Secretary to the Public Service Commission (Commission) informed Canisteo Wind that the Application was deficient and did not comply with PSL §122.[11] On September 9, 2019, Canisteo Wind supplemented the Application to remedy the identified deficiencies.

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[9] PSL §§124(1)(a), (b), (e), and (2).

[10] See 16 NYCRR §§83.3(a)(1)(i) and (iii), 83.3(a)(2), and 86.4(b).

[11] The Application's procedural deficiencies included Canisteo Wind's failure to provide proof of service of the Application on the member of the State Legislature from the 133rd Assembly District and on parties to the proceeding; failure to file a stakeholder list; and failure to provide notice of the Application to adjacent property owners. The Application's substantive deficiencies included information related to wetlands and streams delineations, impacts and mitigation; wildlife and plant impacts and mitigation; and vegetation management.

In a November 13, 2019 letter, the then-Acting Secretary to the Commission found that Canisteo Wind's Article VII application complied with the requirements of PSL §122.

On November 18, 2019, the Secretary issued a notice of public statement hearings and informational forums scheduled for December 11, 2019, at which information about the Project would be provided and public comments would be received. The notice requested submission of all public comments by January 15, 2020. In a separate notice, issued by the Secretary on November 25, 2019, the December 12, 2019 procedural conference, to be held for the purpose of identifying interested parties and discussing a procedural schedule for the proceeding, was announced.

On November 28, 2019, and December 5, 2019, Canisteo Wind caused the Secretary's public statement hearing notice to be published in local area newspapers.[12] In addition, on November 29, 2019, Canisteo Wind mailed the notice to 339 stakeholders, including adjacent property owners.[13]

On December 11, 2019, the assigned Administrative Law Judge (ALJ) held afternoon and evening public statement hearings and informational forums in the Town of Canisteo Fire Hall. Several members of the public presented comments, many of which expressed opposition to the Project and its potential to change the nature of the surrounding rural community. Some commenters expressed support for the Project and the economic benefits it could bring to the community.

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[12] The notice of the Application was published in The Spectator on November 28, 2019, and December 5, 2019; and in the Hornell Penney Saver Plus on November 24, 2019, and December 1, 2019. Canisteo Wind filed proof of publication on December 10, 2019 (DMM Item No. 22).

[13] Canisteo Wind filed proof of mailing of the Application notice to area stakeholders on December 18, 2019 (DMM Item No. 23).

On December 12, 2019, the ALJ held a procedural conference at which interested parties were identified and a proposed procedural schedule was discussed. The attending parties requested that the ALJ delay issuance of a procedural schedule requiring submission of testimony and establishing an evidentiary hearing date in order for the parties to pursue then-planned settlement negotiations.

On December 19, 2019, the ALJ issued a Ruling Adopting Protective Order, which governs the treatment of confidential information in the proceeding.

On December 19, 2019, Canisteo Wind filed and served a notice of impending settlement discussions among the parties pursuant to 16 NYCRR §3.9.[14] Confidential settlement negotiations among the parties were held thereafter over a two-year period, from January 2020 through January 2022.[15]

On January 3, 2020, the ALJ issued a ruling memorializing the parties' request at the December 12, 2019 conference to delay issuance of a procedural schedule and required the parties to report in writing to the ALJ on the progress of settlement discussions by no later than March 13, 2020. The ruling further required the parties to propose a consensus procedural schedule if settlement was not reached by that date.

On March 13, 2020, counsel for Canisteo Wind reported on the progress of settlement discussions and requested additional time to continue discussions, noting that the parties were confident that a full resolution of the proceeding could be reached. Shortly thereafter, the Governor of New York declared

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[14] On December 27, 2019, Canisteo Wind filed a revised notice of impending settlement negotiations, with certification of service of the notice on all parties.

[15] Joint Proposal, p. 3.

a state of emergency as a result of the Covid-19 pandemic and began implementing measures to minimize viral transmission, including a directive to agency personnel to conduct all business activities remotely. For several months thereafter, there was no further progress on settlement negotiations.

In a March 10, 2021 email to the ALJ, a party to the proceeding, Mr. James Koegel, a resident of the Town of Canisteo, advised of recent correspondence received from counsel for Canisteo Wind regarding modifications to and relocation of the proposed transmission line, which would place it immediately adjacent to his property and residence. Mr. Koegel complained that the recent change to the transmission route would impair the quality of life and impact his property value, and that the change had not previously been disclosed to him. Mr. Koegel sought additional information regarding the status of the Project and whether the Commission had approved the relocation of the transmission line.[16]

On March 24, 2021, the ALJ conducted a procedural conference with the parties, including Mr. Koegel, to discuss the procedural schedule and to obtain additional information from Canisteo Wind regarding service of the notice of the application required by PSL §122(2) and service of the notice of settlement discussions on the parties required by 16 NYCRR §3.9. During the conference, counsel for Canisteo Wind indicated that there was an agreement among the parties about a modified route for the transmission line; that a "final" settlement meeting

[16] Earlier in the proceeding, Mr. Koegel had requested party status and was listed as a party to the proceeding, but apparently had not received certain notices, including the December 19, 2019 notice of settlement negotiations. Although he was already a party, on March 17, 2021, Mr. Koegel again filed a request for party status, which the ALJ again granted, leaving no doubt of his party status in the proceeding.

would be held on April 1, 2021; and that a final Joint Proposal would be submitted by the end of April 2021.

Canisteo Wind reported that, as a result of DEC Staff's concerns regarding the transmission line's impacts on freshwater wetlands regulated under Environmental Conservation Law (ECL) Article 24 and the implementing regulations, title 6 of the New York Code of Rules and Regulations (NYCRR) Parts 663 and 664, the originally proposed transmission route was changed and would now run through the southern part of the City of Hornell. On April 7, 2021, Canisteo Wind served a supplement to the Application (Application Supplement) reflecting the proposed route change on the Mayor of the City of Hornell. The City had not been served with the Application because the Transmission Facility route initially did not cross into its borders.

On April 14, 2021, and May 5, 2021, the ALJ issued rulings requiring notice of the route changes on municipalities and property owners potentially affected by the route changes. The ALJs' rulings also required Canisteo Wind to file detailed maps showing the modified transmission route and a statement explaining why the modified route was best-suited for the facility. On May 27, 2021, Canisteo Wind served further notice of the proposed transmission route changes on municipalities and property owners potentially affected by the changed transmission route. The notice included maps identifying the changed route.

As a result of concerns raised by Mr. Koegel regarding the transmission line's visibility from his property, Canisteo Wind again adjusted the proposed transmission route. On October 27, 2021, and November 8, 2021, Canisteo Wind filed and served copies its Second Application Supplement, which included revised Application exhibits, figures and appendices reflecting

changes to the Application.[17] The filing included the revised and updated location of the Transmission Facility route, visual analysis, environmental impacts, agricultural districts, local laws and ordinances, stream crossings, vegetative communities, and other associated Application exhibits.[18]

On March 18, 2022, Canisteo Wind filed a redacted Joint Proposal and numerous appendices resolving all issues in this proceeding.[19] Signatory parties to the Joint Proposal include DPS Staff, AGM Staff, and DEC Staff. Local resident James Koegel is also a signatory to the Joint Proposal for the limited purpose of addressing his concerns with the Project. Canisteo Wind served the Joint Proposal on the party list in this proceeding and filed an affidavit of service on April 11, 2022 confirming service.

Pursuant to the December 19, 2019 Ruling Adopting Protective Order, on March 22, 2022, Canisteo Wind submitted a request for confidential treatment of certain attachments to the Joint Proposal, including, but not limited to, wildlife and endangered species information that DEC Staff was requiring to

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[17] Canisteo Wind served the Second Application Supplement and caused notice of it to be published in area newspapers, there after filing an affidavit of service and proof of publication on November 22, 2021.

[18] Hearing Exhibits 89, 92-96, 98-102, 104-122 (April 7, 2021 Application Supplement; October 27, 2021 and November 8, 2021 Second Application Supplement).

[19] Attached to the Joint Proposal are Appendices A to K, which included proposed Certificate Conditions, Commission findings, and various plans governing the construction and operation of the Transmission Facility. Appendices A and J contain certain confidential information and have been redacted in the publicly available Joint Proposal.

be protected from public disclosure.[20] Canisteo Wind noted in its request for confidential treatment that certain parties to the proceeding had not executed and filed acknowledgements of the Protective Order in order to be entitled to receive the protected information.

In a March 30, 2022 letter to the ALJ, intervenor Wyckoff Gas Storage Company, LLC (Wyckoff Gas) indicated that it had opted not to sign the Joint Proposal and took no position on most of the issues addressed in it, but that it nevertheless supported Appendix D, Certificate Condition 13(d) of the Joint Proposal.[21] Wyckoff Gas operates a natural gas pipeline in close proximity to both the Transmission Facility and Canisteo Wind Facility. In its letter, Wyckoff Gas noted that Joint Proposal paragraph 56 "diverges somewhat" from Certificate Condition 13(d) because it suggests that the three enumerated items are the only items that will be addressed in the required, but as-yet not executed, agreement between Canisteo Wind and Wyckoff Gas. Wyckoff Gas further noted that the extent of Canisteo Wind's financial responsibility for required testing stations will be the subject of additional negotiations. Wyckoff's letter nevertheless concluded that Certificate Condition 13(d) itself makes clear that three enumerated items will be addressed in the agreement between Wyckoff Gas and Canisteo Wind and that the purchase, installation, and maintenance of testing stations will be at Canisteo Wind's expense.

In an April 4, 2022 letter to the ALJ, Canisteo Wind indicated that Certificate Condition 13(d) contains the

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[20] DEC routinely prohibits locational and species-specific information from being publicly disclosed in order to protect these species.

[21] Hearing Exhibit 132 (March 30, 2022 Letter from John R. Staffier, Counsel for Wyckoff Gas).

controlling requirements regarding the Transmission Facility's potential impacts on Wyckoff's natural gas facilities and that it concurred with the observation set forth in Wyckoff's March 30, 2022 letter.[22]

On April 11, 2022, the ALJ issued a ruling establishing a briefing schedule for submitting statements in support of the March 18, 2022 Joint Proposal and a July 15, 2022 evidentiary hearing date. The ruling provided the parties with the opportunity to waive the evidentiary hearing in light of the agreement reached in the Joint Proposal. Thereafter, the signatory parties to the Joint Proposal provided written notice to the ALJ of their waiver of the evidentiary hearing.

On June 10, 2022, Canisteo Wind, DPS Staff, DEC Staff, and AGM Staff filed letters or Statements in Support of the Joint Proposal. Canisteo Wind's Statement in Support asserts that the Joint Proposal meets the criteria under PSL §126 and that the Project meets the public interest, convenience and necessity standard.[23] Canisteo Wind also asserts that the Commission can make the required findings regarding the Project, including the need for the transmission facility; the nature of environmental impacts, including those which are unavoidable such as tree clearing, use of agricultural land, changes to visual landscape features, and wetland impacts; that environmental and agricultural impacts have been minimized; and that the Project is consistent with the State's electric system plans and reliability needs and will comply with applicable State and local laws.

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[22] Hearing Exhibit 133 (April 4, 2022 Letter from John W. Dax, Counsel for Canisteo Wind).

[23] Hearing Exhibit 135 (Canisteo Wind June 10, 2022 Statement in Support), pp. 8-10.

In its Statement in Support, DPS Staff notes that the Joint Proposal resolves all issues in the proceeding and meets the public interest standard insofar as the Project is needed, minimizes adverse environmental impacts, conforms to the State's long-range plans for expansion of the electric power grid, complies with all applicable State and local laws and regulations, and meets the Commission's Settlement Guidelines.[24] In its letter in support, DEC Staff indicates that the Joint Proposal requires compliance with applicable substantive provisions of State law, including the ECL and the applicable implementing rules and regulations, and that there are no further issues for litigation concerning the Application.[25] AGM Staff similarly asserts in its letter in support that all issues in the proceeding are resolved, including AGM Staff's concerns that adverse impacts on agricultural lands and active farming operations be minimized, considering the state of available technology, the nature and economics of alternatives, and other pertinent considerations.[26]

On June 13, 2022, Wyckoff Gas submitted a comment letter on the Joint Proposal to the ALJ, indicating that although it did not oppose the Joint Proposal, the Commission's clarification of certain provisions was needed. Wyckoff Gas noted that the Joint Proposal's description of the referenced agreement between Wyckoff Gas and Canisteo Wind deviated from other language in the Joint Proposal that had been agreed to between the two parties and that the Commission order adopting

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[24] Hearing Exhibit 138 (DPS June 10, 2022 Staff Statement in Support), pp. 4-6.

[25] Hearing Exhibit 139 (DEC June 10, 2022 Letter in Support), pp. 1-2.

[26] Hearing Exhibit 141 (AGM June 10, 2022 Letter in Support), pp. 2-3.

the Joint Proposal should clarify that the language in Certificate Condition 13(d) of Appendix D supersedes any apparent discrepancies in the Joint Proposal's textual description.

DPS Staff, DEC Staff, and AGM Staff did not file testimony identifying or addressing any issues in the Application. During this proceeding, DPS Staff and the other parties engaged in discovery to which Canisteo Wind provided responses. The record in this proceeding, as described in part in Appendix A to the Joint Proposal, includes Canisteo Wind's information request responses. The Exhibit List filed by the ALJ in this proceeding on August 10, 2022 identifies the full record in the proceeding.

V. TERMS OF THE JOINT PROPOSAL AND PROJECT CHANGES

The Joint Proposal describes the Project as proposed in the Application, as revised by the Application Supplements, discovery responses, Certificate Conditions, and other Joint Proposal Appendices. The Joint Proposal includes both general and specific provisions that articulate the Signatory Parties' agreements and their understandings with respect to the construction and operation of the Transmission Facility.[27] The Joint Proposal attaches eleven Appendices, including the following:

Appendix A – Evidentiary Record Contents;

Appendix B – Location of Transmission Facility;

Appendix C – Proposed Commission Findings;

Appendix D – Proposed Certificate Conditions;

[27] See Joint Proposal ¶¶ 4-69.

Appendix E – Specifications for Development of Environmental Management and Construction Plan (EM&CP);

Appendix F – Invasive Species Management Plan;

Appendix G – Unanticipated Discovery Plan;

Appendix H – Transmission Line Adjustment Analysis January 2021;

Appendix I – NYSDEC Supplemental Specifications for Wetlands and Waterbodies;

Appendix J – Eagle Impact Avoidance Plan – Confidential;

Appendix K – Complaint Management Plan proposed Certificate Conditions.[28]

The Joint Proposal reflects certain changes to the Project that vary from the original January 2019 Application and are identified in Canisteo Wind's Application Supplements as well as in Appendices B and H.[29] Other changes were agreed to in the Joint Proposal itself, including construction practices and methodologies.[30]

In the Joint Proposal, Canisteo Wind and the Signatory Parties agree to the modifications to the transmission route to avoid crossing and impacting two State-regulated wetlands and to avoid Project visibility from Mr. Koegel's property.[31] In addition, Canisteo Wind and the Signatory Parties agree to the

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[28] See Joint Proposal, Appendices A-K.

[29] Hearing Exhibits 89, 92-96, 98-102, 104-122 (April 7, 2021 Application Supplement; October 27, 2021 and November 8, 2021 Second Application Supplement). The Second Application Supplement fundamentally revised a significant part of the Application's Exhibits, Appendices, and Figures.

[30] Hearing Exhibit 161 (July 8, 2022 Affidavit of Jeff Veazie), pp. 2-3).

[31] Joint Proposal, pp. 3-4.

location of transmission line poles at a level of detail not provided in the January 2019 Application, which reduced impacts to areas identified as the habitat for threatened and endangered species and as areas subject to agricultural activities.

The Joint Proposal reflects the Signatory Parties' request that the Commission fully adopt all of its terms and provisions and grant a Certificate to Canisteo Wind, with specified Certificate Conditions.[32] The Joint Proposal is expressly conditioned on the Commission fully adopting it as proposed. The Signatory Parties also agree that disputes regarding the Joint Proposal will be resolved informally or the dispute may be presented to the Commission for resolution. The Joint Proposal also purports to identify the evidentiary record, that is, the evidence that the Signatory Parties agree to be admitted to the record in this proceeding.[33]

No party has submitted opposition to the Joint Proposal.

VI. PUBLIC NOTICE AND OPPORTUNITY TO BE HEARD

As stated in the Joint Proposal, Canisteo Wind undertook public outreach, including meetings with stakeholders, State agency staff, and municipalities. Canisteo Wind also sent notice letters to owners of property adjacent to the Project.

Public notice of the Application was published for two consecutive weeks in two weekly publications, The Spectator and The Hornell Penny Saver Plus.[34] Property owners along the Project right-of-way were served notification letters regarding the filing of the Application. Copies of the Application materials were provided and made publicly available to the

[32] Joint Proposal, ¶ 3, p. 5.

[33] Joint Proposal, ¶ 7, p. 6 and Appendix A.

[34] Hearing Exhibit (August 21, 2019 Affidavit of Publication).

Jasper, Hornellsville, and Wimodaughsian Public Libraries and to the Canisteo, Jasper, and Hornellsville Town Halls.

As noted above, the Secretary issued a notice of public statement hearings and informational forums on November 18, 2019. The ALJ conducted the hearings and forums on December 19, 2019, in the Town of Canisteo Fire Hall, at which eleven public statements were received. The majority of public statements raised concerns about the Project's land use, visual, environmental, and noise impacts, but also referenced concerns with the Wind Facility.

Three public comments were submitted electronically to the Department of Public Service Document and Matter Management (DMM) system between August 2019 and January 2020. One commenter complained about a lack of notice when Canisteo Wind's surveyors were on her property and expressed concerns about the high voltage wires associated with the Project and the risk of fire. One commenter noted that the developer is a well-known energy company and that Steuben County needs the economic growth and jobs that the Project will provide. The final comment detailed the connection between the Wind Facility and the Transmission Facility and the impacts associated with both; criticized the subsidies afforded clean energy projects and the electric grid's limitations to distribute clean energy; questioned the lack of transparency about where the Transmission Facility will be sending the wind power; and asserted that both the Wind and Transmission Facilities should not be approved.

The Secretary issued a Notice of the Joint Proposal and Opportunity for Public Comments on July 11, 2022, which invited comments by August 8, 2022. No comments were received on the Joint Proposal in response to the Secretary's Notice.

VII. DISCUSSION

In evaluating the terms of the Joint Proposal submitted here for our consideration, we must determine if produces a result that is in the public interest. Our Settlement Guidelines set forth factors to be used in conducting that analysis.[35] They include consideration of whether the terms of the Joint Proposal are consistent with the environmental, social and economic policies of the Commission and the State; produce results within the range of outcomes that might result if the issues in the case were fully litigated; appropriately balance the interests of the utility's ratepayers, its investors and the long-term viability of the utility; and provide a rational basis for our ultimate decision. Consideration is also given to whether the record is complete and the extent to which the settlement is contested. To grant a Certificate, we also must make all the requisite findings pursuant to PSL §126.[36]

The Joint Proposal in this case is supported by five parties that have been active in this proceeding, namely, Canisteo Wind, DPS Staff, DEC Staff, AGM Staff, and Mr. Koegel. It is not opposed by Wyckoff Gas. The Joint Proposal addresses the statutory and regulatory issues pertaining to the Project, adequately discusses all probable environmental impacts, and addresses the steps needed to ensure that the Project, as proposed, represents the minimal adverse environmental impact, considering the state of available technology, the nature and economics of various alternatives, and other pertinent considerations. The Article VII review process provided all interested parties and the public with a full and fair

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[35] Cases 90-M-0255, et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2 (issued March 24, 1992) (Settlement Guidelines).

[36] PSL §126(1)(a)-(e), (g)-(h).

opportunity to participate, and the Signatory Parties adhered to our settlement rules and guidelines.

In addition to compiling an evidentiary record, the ALJ provided numerous opportunities for public input. No written public comments in response to the Joint Proposal have been received. Only three comments were submitted prior to the filing of the Joint Proposal, one of which was opposed to the Project and specifically referred to not wanting any transmission lines or structures on their property; one of which was in favor of the Wind and Transmission Facilities; and the last of which was filed by Mr. Koegel prior to his reaching agreement with the developer as an active party.

After a full review of the record, we find that the Joint Proposal produces a reasonable result that is in the public interest and is consistent with applicable State and Commission policies.

A. Basis of the Need for the Facility

As a part of our review, we must find a need for the Transmission Facility.[37] Based on the information provided in the record, we find that the Project is needed to connect the Canisteo Wind Facility to the State's electric grid and thereby provide renewable energy to the electric system in furtherance of the greenhouse gas emission reduction objectives set forth in the Community Leadership and Climate Protection Act (CLCPA).

B. Probable Environmental Impacts and Mitigation Measures

PSL §126(1)(b) and (c) requires an Article VII application to summarize the nature of the probable environmental impacts as they relate to the following areas: land use, agricultural resources, visual resources, cultural and

[37] PSL §126(1)(a).

historic resources, terrestrial ecology and wetlands, protected threatened and endangered species, topography and soils, transportation, communications, noise, and electric and magnetic fields. The probable environmental impacts associated with the Canisteo Wind's Transmission Project include temporary disturbance and inconvenience associated with construction activities; tree and vegetation clearing; temporary construction impacts to agricultural lands; permanent impacts to visual resources; and temporary and permanent impacts to wetlands.[38]

Based on the record before us, we agree with the Signatory Parties that the Project, as proposed in the Joint Proposal and appended Certificate Conditions and other Appendices, avoids or minimizes to the extent practicable any significant adverse environmental impacts, considering the state of available technology, the nature and economics of the various alternatives, and other pertinent considerations, including the effect on agricultural lands, visual resources, water bodies and wetlands.[39]

1. Land Use

The Project area is characterized as consisting primarily of undeveloped forest land (107 acres/57.5 percent); and agricultural land (69.2 acres/33.7 percent).[40] Land uses near the Project also include successional old field and shrubland (6.7 acres/3.5 percent), water and wetlands (5.4 acres/2.7 percent), and is characterized by low to medium density residential and light commercial development (2.0

[38] Joint Proposal, ¶ 16, p. 9 and Appendix A; Hearing Exhibit 110 (Supplemental Application Exhibit 4), pp. 12, 16, 19, 24, 31, 37, 41.

[39] Joint Proposal, ¶ 16, p. 9.

[40] Joint Proposal ¶ 21.

percent).[41] The point of interconnection will be located on land owned by NYSEG that is located adjacent to vacant land and to a State road, while the collection substation will be part of the Wind Facility on land own by the Applicant.[42]

2. Agricultural Resources

While agricultural lands represent approximately 33.7 percent of the land use within one mile of the Project centerline, the Joint Proposal indicates that any impacts to agricultural land have been avoided or minimized to the maximum extent practicable. Pole locations have been selected in consultation with landowner-farmers to minimize inhibiting mechanized farming and by following Department of Agriculture and Markets guidelines for transmission facility construction. In addition, while the right-of-way consists of agricultural land, it is not presently developed for any agricultural use.

The Joint Proposal includes Certificate Conditions designed to minimize impacts to agricultural lands through the employment of an environmental monitor.[43]

3. Visual Resources

The Joint Proposal notes that the Application's visual impact assessment study was conducted over an area of three miles on either side of the proposed Transmission Facility route, as required by the Commission's Article VII regulations.[44] The study describes the character of the landscape and identifies visually sensitive resources of national, statewide,

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41 Id.

42 Joint Proposal ¶¶ 22 & 23.

43 Joint Proposal ¶ 61.

44 Joint Proposal, ¶ 24, p. 11.

and local significance in the context of anticipated observers.[45] The Joint Proposal's Certificate Conditions require Canisteo Wind to manage visual impacts by using either wood or self-weathering Corten steel poles and non-specular conductors.[46]

4. Cultural Resources

Application Exhibit 4 contains the overview and inventory of the historic and cultural resources in the area. The Applicant's cultural resource investigation was conducted in compliance with the National Historic Preservation Act (as amended), the National Environmental Policy Act, the New York State Historic Preservation Act, and the State Environmental Quality Review Act.[47] In addition, Canisteo Wind performed an archaeological investigation under the New York Archaeological Council (NYAC) standards which complies with the New York State Historic Preservation Office's (SHPO) Guidelines for Wind Farm Development Cultural Resources Survey Work (2006).

Canisteo Wind's Phase 1A Cultural Resources Investigation and a Phase 1B Archeological Investigation were undertaken in July and August 2018 along a 4.4 mile stretch of areas in proximity to the Transmission Facility and included on-site field investigations, which identified the historic and cultural resource inventory in the area, and architectural surveys.[48]

Canisteo Wind's Archaeological Investigation determined that no precontact archaeological sites were found in the uplands portion of the Wind Facility project area that

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45 Hearing Exhibits 47-55 (Application Exhibit 4, Appendix 4f, Visual Impact Assessment).

46 Joint Proposal ¶ 26, p. 11.

47 Joint Proposal ¶ 27, p. 12.

48 Hearing Exhibit 110 (Supplemental Application Exhibit 4), pp. 38-41.

overlaps with the Transmission Facility, and that four precontact sites were identified in the transmission line corridor during the Phase 1B investigation. These four sites are all located in proximity to the Canisteo River. Although these four precontact sites (Sites 1 through 4) are eligible for listing on the National Register of Historic Places, they would be avoided by limiting the area of potential affect and by using timber matting during construction and steel monopoles.[49]

As of the filing of the Joint Proposal, Canisteo Wind has completed its Phase 1B investigations for poles that were relocated in the Joint Proposal from the Application layout is conducting Phase 2 surveys of previously identified precontact sites. The Joint Proposal requires Canisteo Wind to report the results of the supplemental Phase 1B and Phase 2 surveys to SHPO and DPS staff upon completion and to reach agreement with SHPO concerning any mitigation requirements prior to construction.[50]

The Joint Proposal's Certificate Conditions minimize the Project's cultural resource impacts by requiring Canisteo Wind to ensure that no construction, clearing or other disturbance occur in areas not covered by the Archeological Investigation surveys and until the Office of Parks, Recreation and Historic Preservation (OPRHP) and DPS Staff have reviewed the results of any additional archeological and historic property surveys.[51] In addition, Canisteo Wind is required in the EM&CP to identify environmentally sensitive areas and additional measures to minimize impacts and avoid archeological and historic sites and to ensure that human remains or burial areas and archeological materials encountered during

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[49] Hearing Exhibit 110 (Supplemental Application Exhibit 4), p. 41.

[50] Joint Proposal ¶ 28, p. 12.

[51] Joint Proposal, Appendix D, Certificate Conditions ¶¶ 71-75.

construction are properly handled. The Certificate Conditions restrict construction in undisturbed areas where archeological surveys have not been completed and provide protocols in the event archeological materials or human remains are encountered during construction. Canisteo Wind will have a continuing obligation to respond to complaints of negative archeological impacts and mitigate them through the Unanticipated Discovery Plan attached to the Joint Proposal.[52]

5. Terrestrial Ecology and Wetlands

In its Environmental Impact Study, Canisteo Wind identified 33 surface water areas, 19 delineated wetlands, and six vegetative communities within a 200-foot-wide study corridor, consisting of 100 feet on either side of the transmission line.[53] The Study evaluated the Project's limited temporary and permanent impacts on wetlands (H7 and H8). The Ecological Resources Study Area extended for 100 feet on both sides of the transmission corridor center line.[54] Canisteo Wind consulted the DEC State Wetlands Map to identify and delineate State jurisdictional wetlands. To perform a delineation of Federal jurisdictional wetlands, Canisteo Wind applied the methodology specified by the Corps of Engineers Wetlands Delineation Manual (January 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region Version 2.0 (January 2012); and consulted

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[52] Joint Proposal, Appendix G.

[53] Hearing Exhibit 110 (Supplemental Application Exhibit 4), pp. 16-19, 25-34. There is a discrepancy between the Application's identification of 19 wetlands and the Joint Proposal's indication that 15 wetland areas comprising approximately 3.54 acres and thirty-one linear drainage features were found within the study area. Joint Proposal ¶ 30.

[54] Joint Proposal ¶ 29, pp. 12-13.

publications of the United States Geological Survey, Natural Resources Conservation Service, and National Wetland Inventory.

The Joint Proposal contains an adjustment to the transmission route that minimizes wetland impacts, as reflected in the October 2020 Transmission Line Adjustment Analysis, which results in placing no poles wetlands and limiting permanent wetlands impacts to 0.1 acres. [55] The Joint Proposal notes that any unavoidable impacts during construction will be minimized through the guidance of the "NYSDEC Supplemental Specifications for Wetlands and Waterbodies" and that the result is consistent with the Article 10 conditions on the Wind Facility.[56] Finally, the Joint Proposal's Certificate Conditions, including the requirement for retention of an Environmental Monitor and submission of an EM&CP and a Federal Clean Water Act Water Quality Certification, are designed to minimize such impacts.[57]

6. Protected Threatened and Endangered Species

Canisteo Wind's Environmental Impact Study identified three protected threatened or endangered avian species within the Study Area, including Bald Eagles, Northern Long-Eared Bats, and Northern Harrier.[58] For example, an active Bald Eagle's nest was identified in proximity to the transmission line and the point of interconnection substation. The Joint Proposal states that there are no designated Important Bird Areas or Bird Conservation Areas in the vicinity of the Transmission Facility,

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55 Joint Proposal, Appendix H.

56 Joint Proposal, Appendix I. The Joint Proposal (¶ 33, p. 13) expressly states that the stream crossing specifications do not change the DEC requirement that stream crossings must safely pass the 1 percent annual or 100-year storm event.

57 Joint Proposal, Certificate Conditions 82-83, 63-70, and 113.

58 Hearing Exhibit 110 (Supplemental Application Exhibit 4), pp. 23-25. The Study also identified the Longtail Salamander within the Study Area.

and that the closest areas are located in Keeney Swamp, approximately 14 miles northwest of the project facilities. Notwithstanding the absence of any proximate Areas, the Joint Proposal notes that due to the presence of an active Bald Eagle in the general vicinity of the Transmission Facility, the Applicant will ensure that the Facility's design, construction, and operation will be performed in accordance with the Eagle Impact Avoidance Plan[59] and thereby avoid any impacts to the species and any nest.

The Joint Proposal includes other specific Certificate Conditions to protect these species, such as limiting tree clearing and construction activities during certain months; requiring notification of DPS Staff and DEC Staff of any discovery of protected species; submission of a Net Conservation Benefit Plan (NCBP) for DEC approval as a part of the EM&CP, which meets the endangered species regulatory requirements in 6 NYCRR Part 182; and other contractor training and record-keeping measures.[60] The Joint Proposal therefore adequately addresses impacts to protected species.

7. Topography, Geology, Soils and Groundwater

The Joint Proposal states that the Project is located in the Allegany Plateau physiographic province within the area of the Canisteo and Cohocton Rivers and their valleys that are as deep as 300 feet to 600 feet.[61] The southern portion of the Project is located in a steeply sloped ridge between valleys

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[59] Joint Proposal, Appendix J (Confidential).

[60] Joint Proposal, ¶¶ 45-47; Certificate Conditions 76-81. In addition, if a taking of occupied habitat or of any threatened or endangered species, Certificate Condition 81 requires Canisteo Wind to develop an additional NCBP that meets the requirements of DEC's regulations set forth in 6 NYCRR Part 182.

[61] Joint Proposal ¶ 36-37, pp. 14-15.

that drain Bennett Creek and Colonel Bill's/Milwaukee Creek. The northern end of the Project consists of an area of relatively low relief along the Canisteo River to the point of interconnection.

The Joint Proposal identifies the bedrock in Steuben County as being formed during the Devonian age from deltaic deposits. Making up the bedrock formations is shale, siltstone, and sandstone. The Joint Proposal identifies till resulting from glaciation events as the dominant soil composition in Steuben County.

The Joint Proposal notes that construction and operation of the Project is not expected to have any significant adverse impacts to the area's topography, geology, or soils and the Project design avoids areas with obvious soil-based limitations to development and rock outcrops.[62] The Joint Proposal notes that no blasting is expected during construction of the Project, but that a final geotechnical investigation of each pole location will be performed to confirm that no blasting is required.[63] Construction is expected to result in the temporary disturbance of soils over approximately 12 acres from the grading for access routes and work areas in areas of irregular terrain.[64] Where grading must occur, the Certificate Conditions require Canisteo Wind to use temporary erosion control measures to stabilize any disturbed soils and to restore all disturbed areas during construction to a stabilized condition. Additionally, the Applicant will restrict vehicle access during operation to areas within the Facility's right-of-way to minimize potential impacts on soils and adjacent lands.

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62 Joint Proposal ¶ 38, p. 15.

63 Joint Proposal ¶ 38, p. 15.

64 Joint Proposal ¶ 40, p. 15.

No unique geologic features are found along the proposed right-of-way that would impact construction or operations and no significant adverse impacts to topographic features or geologic resources are associated with the Project. Conditions along the right-of-way that may affect structure placement and construction include low soil bearing capacities, high water tables, and shallow bedrock depths. Such conditions will be mitigated by applying best management practices for engineering, conducting geotechnical investigations to determine soil characteristics, and implementing foundation designs to work with the local soil, water table, and bedrock conditions. Facility components will be located away from steep slopes where practicable and changes to topography are expected to be minor and temporary, associated with grading in work areas and by the construction of access roads and some soil compaction is expected due to construction.

Best management practices will be used to mitigate soil compaction in agricultural areas and to control erosion. Because no permanent or significant changes in topography or surficial materials are anticipated, no significant increases in stormwater runoff volumes or erosion are expected. Culvert replacements and installation of permanent erosion and sediment controls will be incorporated into the Storm Water Pollution Prevention Plan in the EM&CP to address erosion and will be filed for Commission approval.

8. Transportation

The Joint Proposal states that the Project is expected to have no impact on air transportation and will not require Federal Aviation Administration obstruction lighting. Road traffic impacts have been minimized during construction of the Project but will occur from traffic associated with Project construction and encroachment of the road right-of-way in

locations where the Transmission Facility crosses existing roads. No impacts are expected during Project operation. Traffic during such time is limited to periodic facility inspections, tree trimming, and any necessary repairs.

The Joint Proposal indicates that due to accommodations of available property and avoiding wetland impacts, the Transmission Facility will cross a Norfolk & Southern (N&S) railroad track at four different locations toward its northern end. Certificate Condition 28(d) requires Canisteo Wind to file proof of licensing and construction authorization from N&S as part of its EM&CP.

9. Wyckoff Gas Facility

During the proceeding, the Transmission Facility's potential construction and operational impacts to a natural gas pipeline owned by Wyckoff Gas were identified because it will cross over the pipeline. Although not a signatory to the Joint Proposal, Wyckoff Gas was an active participant in this proceeding and requests the Commission's clarification of two Certificate Conditions that address its interests. As noted above, in a March 30, 2022 letter, counsel for Wyckoff Gas indicated its support for Certificate Condition 13(d), which provides the controlling requirements with respect to addressing the Transmission Facility's potential impacts during construction and operation. Wyckoff Gas pointed out that the summary in Certificate Condition 56 "diverges somewhat" from Certificate Condition 13(d) insofar as "it (1) suggests that the three enumerated items are the only items that will be addressed in the required agreement between the Certificate Holder and Wyckoff, and (2) suggests that the extent of the Certificate Holder's financial responsibility for the required testing

stations will be a subject of negotiation."[65] Wyckoff stated that it otherwise had no objection to any other aspect of the Joint Proposal.

In an April 4, 2022 responsive letter, Canisteo Wind indicated that it "concurs" with Wyckoff's position that Certificate Condition 13(d) sets forth the controlling requirements regarding the Transmission Facility's potential impacts on Wyckoff's gas pipeline facilities.

Certificate Condition 13 requires Canisteo Wind to engineer and construct the Project so that it is compatible with the operation and maintenance of nearby electric, gas, telecommunications, water, sewer, and related facilities. Certificate Condition 13(d) specifically requires Canisteo Wind to enter into an agreement with Wyckoff Gas to define the location where the Transmission Facility will cross the pipeline and to prohibit blasting within 1500 feet of the gas pipeline and the use of herbicides on any portion of the pipeline right-of-way without Wyckoff's approval. It also requires Canisteo Wind to purchase, install, and maintain two testing stations to monitor the effect of electricity transmission on the pipeline. Of note is the Siting Board's decision in the related Canisteo Wind Article 10 case to include a Certificate Condition that also required an agreement with Wyckoff Gas for excavations, crossings, and other construction activities associated with the Wind Facility.[66]

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[65] Hearing Exhibit 132 (March 30, 2022 Wyckoff Letter). In a separate letter, Wyckoff Gas later reiterated its concerns. Hearing Exhibit 147 (June 24, 2022 Wyckoff Gas Letter).

[66] Case 16-F-0205, Order Granting Certificate of Environmental Compatibility And Public Need, With Conditions (Appendix A, Certificate Conditions, Attachment A, Additional Required Filings, ¶ 14(f), pp. 7-8).

We clarify that Certificate Condition 13(d) sets forth the controlling requirements related to how Canisteo Wind will address potential construction and operation impacts to Wycoff's natural gas pipeline and related facilities, which should be consistent with the requirements in the Siting Board's Order governing the Wind Facility. We further clarify that Certificate Condition 56 is not intended to limit or otherwise resolve the issues that must be addressed in future negotiations between Canisteo Wind and Wyckoff Gas to reach the required agreement referenced in this proceeding and the Siting Board's order issuing a certificate for the Wind Facility.

10. Communications

The Joint Proposal states that no adverse impacts from Project construction or operation are anticipated to any communications medium, such as cellular, television, radio, or other communications because of the low level of electromagnetic field radiation that will occur outside the transmission cable corridor.[67] Should an issue occur, the Joint Proposal includes a Complaint Management Plan to address any issue.

The Joint Proposal also provides that Canisteo Wind will perform tests to evaluate the grade of reception and enact any necessary and appropriate measures to eliminate interference that arises to off-air reception or other communications. As for locating the existence of underground facilities, the Joint proposal indicates that Canisteo Wind will consult any potential communications facility owners and do field determinations based on the location of any above ground features. To the extent that any existing underground facilities are suspected that would potentially interfere with the Project's design, those

[67] Joint Proposal, ¶¶ 53-54.

would be verified and marked out in the field for survey to provide an accurate depiction in the EM&CP.

11. Noise

As noted in the Joint Proposal, construction, maintenance, traffic, vegetation clearing, and associated management activities will result in temporary impacts on noise levels in the surrounding community.[68] Operation of the Transmission Facility itself will produce little noise other than a crackling sound (i.e., the corona effect) in certain humid or wet conditions at certain times and the collection substation will produce a low-humming noise. In general, noise impacts will be temporary during construction due to the linear nature of the construction activities and will be mitigated by the effect of distance, presence of existing generation, routing construction equipment away from noise sensitive receptors to the extent practicable, turning off any idling equipment; and utilizing proper mufflers on construction equipment. Such measures will be addressed in the EM&CP and the location of noise-sensitive sites will be identified.[69] The Joint Proposal provides that noise levels along the right-of-way will not exceed 67 dBA within 1,000 feet of the source.[70] In addition, it includes a Complaint Management Plan for evaluation and resolution of noise complaints.[71]

The Joint Proposal's Certificate Conditions establishing noise limits, requiring minimization measures in

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[68] Joint Proposal, ¶¶ 50-52.

[69] Joint Proposal, Appendix E, ¶ 9, pp. 6, 12. The Joint Proposal also calls for noise limits of 67 dBA in areas near Bald Eagle nests.

[70] Joint Proposal, Appendix J, § 4.5 (citing the estimated noise levels during construction in Application Exhibit 4g).

[71] Joint Proposal, Appendix K, § 5, pp. 4-5 and Attachment A.

the EM&CP, and establishing a complaint resolution process demonstrates that the Project's noise impacts will be adequately addressed.

12. Electric and Magnetic Fields

Electromagnetic fields (EMFs) are produced by power lines during operation. Pursuant to the Commission's Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities, the peak field at the edge of the right-of-way as measured one meter above ground when phase currents are equal to winter normal conductor ratings shall not exceed 200 milligauss (mG).[72] The Commission established that the maximum electric field at the edge of the right-of-way shall not exceed 1.6 kV/m when measured one meter above ground level with the line at the rated voltage.[73]

Canisteo Wind's Application contains an EMF Analysis included as Appendix 4F of the Application.[74] Under existing conditions, both magnetic and electric fields limits are exceeded in certain locations along the right-of-way where the existing 115 kV transmission facility is located on the utility corridor with existing double-circuit 345 kV transmission facilities. Canisteo Wind's Application recites that the electromagnetic and magnetic field levels outside of the

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[72] Cases 26529 and 26559, Proceeding on Motion of the Commission as to Regulations Regarding Electric and Magnetic Field Standards for Transmission Lines, Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities (issued September 11, 1990).

[73] Case 26529 and 26559, supra, Power Authority of the State of New York and Health/Safety of Extra-High Voltage Lines, Opinion No. 78-13 (issued June 19, 1978).

[74] See Evidentiary Exhibits 1, Appendix H and 16.

Transmission Facility right of way are within the Commission's guidelines, and therefore are unlikely to cause impacts.[75]

With regards to electric fields, the EMF Analysis concludes that general peak levels around the RTS Project transmission line will decrease with the proposed configuration and that levels remained similar or had minor increases at the edge of the right-of-way. The increases in electric field thresholds are de minimis and are in the same locations where the present conditions exceed electric field limits.

With regards to magnetic fields, the EMF Analysis indicates that there will be some de minimis increases in magnetic field levels at the edge of the right-of-way. As with electric fields, all such areas identified currently exceed the standards and these exceedances occur on the edge of the right-of-way where the Project is located next to a double-circuit 345 kV facility.

Certificate Condition 28(c) requires Canisteo Wind to comply with the Commission's EMF standards by including a professional engineer's report indicating that the Transmission Facility will comply with applicable limits.[76] The EMF Analysis concludes that EMF levels will decrease below the respective limits within 10 to 15 feet of the right-of-way edge and that there are no structures located within 15 feet of the right-of-way edge where exceedances have been identified.

13. Alternatives

The Joint Proposal submits that although the application included a look at alternatives, the final proposed location is preferred by the parties due to its relatively

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[75] Joint Proposal, ¶¶ 57-58; Hearing Exhibit (Application Exhibit 4, Appendix 4-G).

[76] Joint Proposal ¶ 58, p. 20.

minimal impacts to wetlands, floodplains, topography, and residential areas. The Joint Proposal notes that the line locations were primarily selected based on the selected preferred location of the point-of-interconnection and collection substation. The Applicant looked at two switchyard alternative locations, but found specific reason not to pursue those alternatives in light of the availability of the preferred location.

Canisteo Wind also evaluated one alternative for the Collection Substation. Ultimately, the Applicant decided against this alternative because of difficulties in expanding the existing ROWs and acquiring necessary easements.

The Joint Proposal indicates that Canisteo Wind evaluated two alternative routes for the transmission line. The Applicant determined that the two alternative routes were not feasible due to significant cost increases and engineering uncertainties. The Joint Proposal also notes that there is no opportunity for not building the Project as such an option would prevent the Wind Facility from being built because it would not be able to interconnect with the State's electric grid, contravening the State's policy of delivering renewable energy into the overall energy mix.

C. Conformance to State and Local Laws

PSL §126(1)(g) requires a finding that the Project as proposed conforms to all applicable State and local laws and regulations. In its Application, Canisteo Wind listed the State and local laws and regulations applicable to the Project.[77] The Joint Proposal represents that the Applicant's list of those laws was comprehensive and that the Project will comply with all

[77] Hearing Exhibit (Supplemental Application Exhibit 7).

substantive State and local laws and regulations.[78]

D. Provisions Not Adopted

With respect to the general provisions set forth in Section I of the Joint Proposal, we note that, for the most part, these are routine terms governing the parties' relationships. Therefore, except for Joint Proposal (paragraph 4, relating to dispute resolution), we do not adopt the provisions in Joint Proposal Section I. We also find that the record of this proceeding is set forth in the exhibit list filed in the Department's Document and Matter Management system and is not limited to the items set forth in Appendix A of the Joint Proposal.

E. Public Interest Finding

The basis of the need for the Project and the nature of probable environmental impacts are discussed above. Based on the record developed in this proceeding, and for the reasons discussed above, we find that, with the adoption of the Certificate Conditions and other Appendices proposed by the Signatory Parties, the Project avoids or minimizes to the extent practicable any significant adverse environmental impacts, particularly considering the state of available technology, the nature and economics of the various alternatives, and other considerations. The Project conforms to the State's long-range plan for expansion of the electric power grid of the electric systems serving this State and its interconnected utility systems, which will serve the public interests in electric system economy and reliability. The Project conforms to the substantive provisions of applicable State and local laws and

[78] Joint Proposal §64.

regulations. We therefore find that the Project will serve the public interest, convenience, and necessity.[79]

VIII. CLCPA FINDING

The CLCPA requires, among other objectives, the procurement of 6,000 MW of solar by 2025; a 70 percent reduction in greenhouse gas emissions by 2030; an 85 percent reduction by 2050; and 100 percent zero emission electricity by 2040. In furtherance of these objectives, CLCPA Section 7(2) requires all State agencies to consider whether their administrative approvals and decisions "are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits" established in Environmental Conservation Law (ECL) Article 75.[80]

In light of the CLCPA's specific objectives related to the development of renewable energy, our approval of Canisteo Wind's Transmission Facility is consistent with those objectives because it will enable electric generation from the Wind Facility to efficiently enter the State's electric grid system. We therefore find that our determination here to grant the Certificate is consistent with the CLCPA and will advance its objectives.

IX. CONCLUSION

Based on our review of the evidentiary record compiled in this case and the Joint Proposal, we grant to Canisteo Wind a conditional Certificate of Environmental Compatibility and Public Need pursuant to Article VII of the Public Service Law. Our action is based on our adoption of the proposed findings

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[79] PSL §126(1)(h).

[80] CLCPA, L. 2019, ch. 106, §7(2); ECL §75-0101, et seq.

enumerated in Appendix C to the Joint Proposal. The conditions applicable to the Certificate are contained in Appendix D to the Joint Proposal.

The Commission orders:

1. As consistent with the discussion in this Order, the terms and provisions of the Joint Proposal attached to this Order are adopted and incorporated into and made a part of this Order.

2. Subject to the conditions adopted in this Order, Canisteo Wind Energy, LLC is granted a Certificate of Environmental Compatibility and Public Need authorizing it to construct and operate the Project as described in the Joint Proposal and its Appendices.

3. The Proposed Certificate Conditions included as Appendix D to the Joint Proposal are approved and incorporated into this Order.

4. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, include a justification for the extension, and be filed at least three days prior to the affected deadline.

5. This proceeding is continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of CANISTEO WIND ENERGY LLC Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for the Construction, Ownership and Operation of a Transmission Facility in the Towns of Cameron, Canisteo, Jasper, Greenwood, Troupsburg, and West Union, Steuben County.	:	Case 19-T-0041

JOINT PROPOSAL

Dated: March 18, 2022
Albany, New York

By: Canisteo Wind Energy LLC
New York State Department of Public Service Staff
New York State Department of Environmental Conservation
New York State Department of Agriculture and Markets
James Koegel

CASE 19-T-0041 CANISTEO WIND ENERGY LLC
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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of CANISTEO WIND ENERGY LLC Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for the Construction, Ownership and Operation of a Transmission Facility in the Towns of Cameron, Canisteo, Jasper, Greenwood, Troupsburg, and West Union, Steuben County.	:	Case 19-T-0041

JOINT PROPOSAL

This Joint Proposal (JP), which includes Appendices A through M attached hereto and incorporated herein, is made as of the 18th day of March, 2022 by and among the following parties to this proceeding: Canisteo Wind Energy LLC (CWE or Applicant); staffs of the New York State Departments of Public Service (DPS), Environmental Conservation (NYSDEC) and Agriculture and Markets (AGM); and for a limited purpose, James Koegel, (the "Signatory Parties").

This JP is being filed in accordance with the Public Service Commission's (PSC or Commission) regulations and settlement guidelines,[1] and the rulings of Administrative Law (ALJ) Judge Maureen Leary.

INTRODUCTION

On January 14, 2019, CWE filed with the PSC an application for a Certificate of Environmental Compatibility and Public Need (Certificate or CECPN) pursuant to Article VII of the Public Service Law (PSL 122 and its implementing regulations, 16 NYCRR Part 86 (Application), seeking authorizations to construct, operate and maintain an approximately 14.6

[1] See, 16 NYCRR 3.9; see also, Case 90-M-0255 and 92-M-0138, "*Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines*," Opinion 92-2, issued and effective March 24, 1992 (Settlement Guidelines).

mile transmission facility (Transmission Facility) the purpose of which is to interconnect the planned Canisteo Wind Energy Project (CWE Project) to the New York State Bulk Power System at the existing 115 kV Bennett Substation owned and operated by the New York State Electric & Gas Corporation (NYSEG). The CWE Project is a 290.7 MW wind energy electric generating facility located in the Towns of Cameron, Canisteo, Jasper, Greenwood, Troupsburg, and West Union, in Steuben County, New York. The New York Board on Electric Generation Siting and the Environment (Siting Board) has granted CWE a CECPN pursuant to Article 10 of the Public Service Law.[2]

In a letter dated May 17, 2019, the Secretary of the PSC identified deficiencies in the Application. CWE filed a response to the deficiency letter on September 9, 2019. Thereafter, by letter dated November 13, 2019, the Secretary determined that the Application was complete and in compliance with PSL § 122 and 16 NYCRR §86.

A *Notice of Information Forums and Public Statement Hearings* was issued on November 15, 2019, and an *Amended Notice of Informational Forums and Public Statement Hearings* was issued on November 18, 2019 (Amended PSH Notice). On November 28, 2019 and December 5, 2019, the Amended PSH Notice was published in *The Spectator* and on November 24, 2019 and December 1, 2019, the Amended PSH Notice was published in the *Hornell PenneSaver Plus*. Proof of Publication was filed on December 10, 2010 (DMM 22). On or about November 29, 2019, the Amended PSH Notice was mailed to a list of 339 stakeholders including adjacent property owners. Proof of mailing was filed on December 18, 2019 (DMM 23).

A Public Statement Hearing was held before ALJ Maureen Leary on December 11, 2019, at the Canisteo Fire Department, Canisteo, New York. A procedural conference of the active

[2] Case 16-F-0205 *Order Granting Certificate of Environmental Compatibility and Public Need, with Conditions*, March 13, 2020.

parties was held on December 12, 2019, in Albany, New York. After exploratory discussions among the parties, on December 19 and 27, 2019, CWE served a *Notice of Impending Settlement Negotiations and Settlement Conference* and a *Revised Amended Notice of Impending Settlement Negotiations and Settlement Conference,* respectively, on all active parties (Notice of Settlement). Pursuant to *Ruling Memorializing Agreement Reached at Procedural Conference* dated January 3, 2020, Canisteo reported the status of settlement discussions to ALJ Leary by email dated March 13, 2020, indicating, among other things, that settlement of all issues appeared to be likely.

Confidential settlement negotiations were held in person or by telephone on January 16, February 24, March 12, July 10, November 19, 2020; March 10 and March 31, 2021; and January 28, 2022. Additional conferences were conducted specifically to address issues concerning wetland locations and possible locations of Threatened and Endangered Species, the latter of which were not open to all parties. Electronic communications were also utilized to facilitate settlement discussions. As a result of concerns raised by NYSDEC concerning the proposed transmission line route crossing regulated wetlands CWE proposed adjustments to its originally proposed route, including a revision that would route the line through the southernmost part of the City of Hornell, a municipality that, as of that date, had not been given notice of the proposed Transmission Facility. In compliance with the requirements of PSL §122(2), CWE served a copy of the Application and Supplement on the Mayor of Hornell on April 7, 2021, and published notice of the revised route in newspapers that serve Hornell on April 25 and May 2, 2021.

In the spring of 2021, James D. Koegel, an active party to this proceeding, raised a concern about the visibility of the Transmission Facility from his residence on Bush Hill Road, in the Town of Canisteo. Through negotiations with Mr. Koegel and the owner of an adjoining property, CWE has adjusted the proposed route so as to avoid visibility from his residence.

On November 8, 2021, CWE served copies of its Second Application Supplement, which includes revised Application exhibits, figures and appendices reflecting changes to conform the Application to the revised and updated Transmission Facility route which CWE proposes be approved by the Commission and for which CWE requests it be granted a CECPN. Because the revised and updated route are the product of settlement discussions, the Signatory Parties to this JP support CWE's request.

After thorough discussion of the issues, the Signatory Parties reached agreement regarding the resolution of issues they had identified, which are set forth in this JP. The Signatory Parties further believe that this JP gives fair and reasonable consideration to the interests of customers, transmission owners, and the public in assuring the provision of safe and adequate service. As detailed in this JP, the Signatory Parties join in recommending that the Commission issue CWE a Certificate authorizing construction and operation of the Transmission Facility as described herein. The Signatory Parties respectfully request that the Commission adopt the provisions of this JP in resolution and settlement of the issues addressed herein.

TERMS OF JOINT PROPOSAL

I. GENERAL PROVISIONS

1. The Signatory Parties have agreed to submit this JP to the Commission and mutually request that the Commission adopt the terms and provisions of this JP in an order granting a Certificate. The Signatory Parties mutually agree that construction, operation and maintenance of the Transmission Facility in compliance with the terms of this JP and with the Proposed Certificate Conditions set forth in **Appendix D** attached hereto will comply with PSL Article VII and with the substantive provisions of applicable state law referenced in the Proposed Commission Findings set forth in **Appendix C** attached hereto.

2. Each provision of this JP is expressly conditioned upon approval of the other terms of this JP by the Commission. If the Commission chooses to adopt additional terms, or otherwise rejects, in part, a specific term set forth in this JP, each of the Signatory Parties reserves the right to accept the Commission's terms as amended, or to individually reject the amended terms of this JP and pursue their respective positions in this proceeding without prejudice.

3. All Signatory Parties fully support approval of the JP in its entirety. The Signatory Parties acknowledge that certain provisions set forth in this JP contemplate future actions by individual parties to effectuate fully this JP. Accordingly, each of the Signatory Parties agrees to cooperate with the party taking such future actions and act in good faith toward the successful completion of such future acts, as prescribed in this JP.

4. Disagreement regarding the interpretation of any provision of this JP, including the time for compliance or the sufficiency of any action taken, which cannot be resolved informally among the individual Signatory Parties, shall be resolved, first, by presentation of the dispute to the remainder of the Signatory Parties, who promptly and in good faith shall attempt to resolve such disagreement. Thereafter, if such disagreement cannot be resolved, any one of the Signatory Parties may petition the Commission for resolution of the disputed matter.

5. This JP does not constitute a waiver by the Applicant or any Signatory Party of any rights that party may otherwise have to apply for additional or modified permits, approvals, or certificates from the Commission or any other agency in accordance with relevant provisions of law.

6. This JP is being executed in counterpart originals and shall be binding on each Signatory Party when the counterparts have been executed.

7. Together with this JP, the Signatory Parties are providing a list of the documents that constitute the evidence agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding (Evidentiary Record), attached hereto as **Appendix A**[3]. To the extent that the Signatory Parties have not included material prepared or discussed during the settlement process, the Signatory Parties agree that such excluded materials are consistent with the materials submitted and, therefore, not required to support the grant of the Certificate for the Transmission Facility as described in this JP.

II. DESCRIPTION OF PROJECT

8. The Signatory Parties agree that the Description and Location of Transmission Facility set forth in this paragraph 8 and **Appendix B**, attached hereto, accurately describes the location and configuration of the Transmission Facility as they recommend it be approved by the Commission. The Transmission Facility will be an overhead facility designed and operated at 115 kV and will be comprised of 3 phases of double bundled 1272 kcmil "Bittern" ACSR conductors with separate grounding and five optic communication lines, installed on wood or Corten weathered steel poles ranging in height from 47.5 to 115 feet in height above ground level. Exhibit E-2 and Figure 5-2 of the Application include a description of the components of the Transmission Facility that will be constructed by CWE and transferred to NYSEG and the components of the Transmission Facility that will be constructed and owned by CWE.

[3] Appendix A identifies each document containing evidentiary material and provides its location on the Commission's Document Matter Management system. Filing letters, rulings and other non-evidentiary records are not included.

III. ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

9. The Commission must consider the totality of all relevant factors in making its determination of environmental compatibility and public need. The relevant factors include, without limitation, the basis of the need, cost, environmental impact, availability and impact of alternatives, undergrounding considerations, conformance to long-range plans, electric system reliability, state laws and local laws, and the public interest, convenience, and necessity.

A. NEED FOR THE PROJECT

10. The Transmission Facility's sole purpose is to operate as a generator lead (*i.e.*, interconnection line) to deliver electricity produced by the CWE Project to the NYSEG transmission system.

11. The need for the Transmission Facility is intrinsic to the need for the CWE Project. New York State has made a bold commitment to developing its renewable energy resources with the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA) and the New York State Climate Leadership and Community Protection Act (Chapter 106 of the laws of 2019) (CLCPA). The CLCPA and AREGCBA call for the PSC to establish programs to require a minimum of 70% statewide electricity use to be produced by renewable energy systems by 2030. The amount of renewable energy needed to be produced from new sources to meet this goal will be a significant addition to existing renewables production. Achieving the goal will require that the State develop all its high value wind resources using the most efficient technology available.

12. Electricity produced by the CWE Project will be delivered into New York's bulk power grid through the Transmission Facility, used by New York consumers, and contribute to meeting the State's goals for reducing greenhouse gases. Without an interconnection to the existing

NYSEG transmission system the Project's 290.7 MW of generating capacity and approximately 805 GWh of annual renewable electricity production cannot be delivered to the State's bulk power system. As explained in Exhibit 3 of the Application, the Transmission Facility represents the most reasonable and practicable means to connect the CWE Project to the State's bulk power system.

B. COST

13. The Applicants' estimated costs for the Transmission Facility are set forth in Exhibit 9 of the Application. As a necessary component of the CWE Project, the Transmission Facility's construction and operation expenses will positively affect regional employment and earnings. Local suppliers and contractors as well as local businesses that cater to the construction/operations work force, such as hotels/motels, eating and drinking establishments, and recreational providers, will benefit from the construction of the Transmission Facility. Because the Transmission Facility's separate construction activities will be limited in scope and of relatively short duration, they will not induce any significant changes in the economic or local residential, commercial, agricultural or industrial land use patterns.

C. ENVIRONMENTAL IMPACT

14. The Evidentiary Record describes the nature of the probable environmental impacts of the Transmission Facility, which are expected to be minimal and generally limited to temporary, construction-related disturbances and inconveniences.

15. The potential long-term impacts of the Transmission Facility will consist of the introduction into the local environment of a new visual feature, a new source of electro-magnetic

fields, and a new source of sound associated with the POI switchyard, and the removal of a finite amount of land from agricultural use and the clearing of some forested land.

16. Exhibit 4 of the Application, as supplemented by narrative discussions, figures and plans included in **Appendix A** to this JP, describes how the environmental impacts associated with construction of the Transmission Facility will be minimized by the type of construction methods chosen and by building upon the experience Invenergy's personnel and contractors have gained installing and operating similar electric transmission facilities.

The Transmission Facility has been reviewed with respect to potential impacts to land uses, visual, cultural, terrestrial, wildlife, wetland and water resources, topography and soils, transportation, noise, debris, communications, and electric and magnetic fields (EMF). With the design modifications developed by the Signatory Parties and identified in the Proposed Certificate Conditions attached as **Appendix D** to this JP, the Transmission Facility represents the minimum practicable adverse environmental impact.

17. The Signatory Parties agree that the Transmission Facility, as this JP and the accompanying Appendices propose it to be located and configured, represents the minimum adverse environmental impact considering the state of available technology, the fact that CWE does not have the power of eminent domain and the nature and economics of the various alternatives and other pertinent considerations. The proposed route and configuration, as modified in response to NYSDEC concerns regarding wetlands and Norther Harrier habitat, are preferred because the Transmission Facility makes use, to a great extent, of land near or adjacent to existing ROW, avoids or minimizes the disturbance of natural habitat, is reasonable in terms of cost, and

minimizes disturbance of residential, agricultural and commercial properties and activities and traffic.

18. Categorized by type of impact, the following sections address the potential for environmental impacts to result from the proposed construction and operation of the Transmission Facility.

1. Land Use

19. The proposed Transmission Facility is approximately 15 miles of new overhead 115 kV transmission line and will pass through the Towns of Jasper, Canisteo, and Hornellsville, and the Village of Canisteo and City of Hornell in Steuben County, New York. Described from south to north the route of the line begins at the proposed 34.5/115 kV Canisteo Wind Farm collection substation in the Town of Jasper, New York, located approximately 0.5 mile west of the intersection of County Route (CR) 63 and North Road and proceeds from the collection substation in a generally north/northwest direction, spanning approximately 3.3 miles through the Town of Jasper, 8.7 miles through the Town of Canisteo (including approximately 1 mile in the Village of Canisteo), 2 miles in the Town of Hornellsville, and approximately 2,000 feet in the City of Hornell.

20. The Transmission Facility will be located on private property, on easements that have been obtained by the Applicant from landowners. The Transmission Facility will be suspended from 107 poles located as depicted on Figure 2-1(revised).

21. Current land use along the proposed Transmission Facility consists mostly of undeveloped forest land (57.5%) and agricultural land (33.7%). Additional land uses include

successional old field and shrubland (3.5%), wetlands (2.7%), and suburban areas characterized by low to medium density residential and light commercial development (2.0%).

22. The proposed POI Switchyard will be built on land owned by NYSEG. The POI Switchyard site is located within an area in which transmission facilities are a permitted use. The POI Switchyard site is adjacent to State Route 36 and vacant land.

23. The Collection Substation, which is part of the CWE Project, will be built on land to be owned by the Applicant.

2. Visual Resources

24. As discussed in Appendix 4 of the Application, understanding the potential visual impacts of the Transmission Facility requires consideration of the compatibility of the Project with the visual character of the existing landscape in the established study area, the distances and locations from which the Transmission Facility would be viewed within the study area, and the duration, frequency, and circumstances associated with viewing the Transmission Facility. In accordance with DPS Article VII regulations (NYSDPS, 2010), the visual study area was defined as the area within 3 miles, on either side of the proposed Transmission Facility.

25. Within the visual study area, the character of the landscape was described, viewer groups were defined, and visually sensitive resources of national, statewide, and local significance were identified. Landscape character within this area is defined by the basic pattern of existing landform, vegetation, land use and water features.

26. Visual impacts will be minimized by using either wood or self-weathering Corten steel poles and non-specular conductors.

3. Cultural Resources

27. As discussed in Exhibit 4 of the Application, a cultural resource investigation was conducted in compliance with the National Historic Preservation Act (as amended), the National Environmental Policy Act, the New York State Historic Preservation Act, and the State Environmental Quality Review Act. An archaeological investigation also was conducted according to the New York Archaeological Council (NYAC) standards and in compliance with NYSHPO's Guidelines for Wind Farm Development Cultural Resources Survey Work (2006). The field investigation was conducted during July and August of 2018.

28. No precontact archaeological sites were found in the uplands portion of the project area of potential effect (APE) during survey for the APE of the entire CWE Project. Four precontact sites were identified during the investigation of the transmission line corridor in proximity to the Canisteo River during a Phase 1B investigation. CWE has completed Phase 1B investigations of its new pole locations and is also conducting Phase 2 surveys of precontact sites previously identified during Phase 1B investigations. CWE will report the results of the supplemental Phase 1B and Phase 2 surveys to SHPO and DPS staff upon completion of the Phase 2 surveys and reach agreement with SHPO concerning any mitigation requirements. The proposed Certificate Conditions include a requirement to follow the Unanticipated Discovery Plan included as **Appendix G** during construction.

4. Terrestrial Ecology and Wetlands

29. A preliminary review of available information pertaining to vegetation, soils, and hydrology was implemented for the project within 100 feet of either side of the centerline ("Ecological Resources Study Area") prior to conducting a field investigation at the site. Sources of information included the United States Geological Survey (USGS), Natural Resources

Conservation Service (NRCS), National Wetland Inventory (NWI), and NYSDEC Freshwater Wetland maps. The USGS, NRCS and NWI maps indicate the potential for wetlands under federal jurisdiction. The NYSDEC map indicates the presence of wetlands under State jurisdiction.

30. CWE consultant applied methodology specified by the Corps of Engineers Wetlands Delineation Manual (January 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region Version 2.0 (January 2012) to perform a delineation of Federal jurisdictional wetlands within the site. CWE's consultant identified fifteen (15) wetland areas totaling 3.54± acres and thirty-one (31) linear drainage features within the Ecological Resources Study Area.

31. To minimize impacts to NYS wetlands identified as H7 and H8, CWE made adjustments to the facility route explained and depicted in the "Transmission Line Adjustment Analysis October 2020" included as **Appendix H** to this JP.

32. With those adjustments, permanent occupation of the wetlands will be limited to: 0.1 acres of permanent Forest Conversion. No poles will be located in wetlands, and any unavoidable impacts during construction will be minimized by adhering to the practices prescribed in "NYSDEC Supplemental Specifications for Wetlands and Waterbodies" included as **Appendix I.**

33. NYSDEC has, in this instance, agreed to the language set forth in the Stream Crossing Specifications within **Appendix I** to maintain consistency with the corresponding Article 10 Canisteo Wind Project (16-F-0250). This case-specific agreement does not constitute a change in NYSDEC's position that, typically, stream crossings should be designed to safely pass the 1% annual (100-year return) chance storm event.

5. Topography, Geology, Soils and Groundwater

34. The Transmission Facility is located in the Allegany Plateau physiographic province. The Canisteo and Cohocton Rivers drain most of the interior part of the county, creating valleys that are as deep as 300 feet to 600 feet. The southern portion Transmission Facility is located in a steeply sloped ridge between valleys that drain Bennett Creek and Colonel Bill's/Milwaukee Creek. As the Transmission Facility travels north, it enters the Canisteo River valley, which consists of an area of relatively low relief along the Canisteo River, until its termination at the POI substation.

35. Elevations along the Transmission Facility route range from 1,140 feet above mean sea level (AMSL) to 2,400 feet AMSL. The elevation at the POI Substation is approximately 1,140 feet AMSL and is relatively level. The elevation at the collection substation parcel ranges from 2,280 feet AMSL to 2,360 feet AMSL, and generally slopes to the northwest, but is relatively level where the substation is proposed.

36. All of the bedrock in Steuben County is from the Devonian age and formed generally from deltaic deposits (NRCS, 1978). Major bedrock formations include shale, siltstone, and sandstone (NYSM, 1999a). Steuben County experienced several glacial advances and retreats during the Pleistocene Age. In general, three types of glacial materials were deposited as a result of the several modes of deposition that occurred either during or shortly after the glacial retreat: till, lacustrine, and outwash material (NRCS, 1978). Till is dominant within Steuben County and resulted from debris that was deposited beneath a moving glacier. The makeup of till is influenced by the bedrock over which the glacier has moved and picked up particles (NRCS, 1978).

37. The Steuben County Soil Survey indicates that 33 different soil units are mapped within the Transmission Facility ROW from 19 soil series.

38. Construction and operation of the proposed Transmission Facility will not have a significant adverse impact to the topography, geology, or soils. Areas with obvious soil-based limitations to development (e.g., shallow bedrock) and rock outcrops have been avoided, and blasting is not anticipated to be needed during construction of the Transmission Facility. A final geotechnical investigation at each pole location will be performed prior to construction to confirm that no blasting is required.

39. Temporary disturbance to soils will result from construction activities that could include grading for access routes and work areas. Grading will not be required where terrain is flat and open but may be necessary in areas of irregular terrain. Where grading must occur, temporary erosion control measures will be applied to stabilize disturbed soils. Following construction, disturbed areas will be restored to a stabilized condition. Vehicle access during operation will be restricted to areas within the ROW to minimize potential impacts on soils and adjacent lands.

40. Temporary tower-related disturbance will result in a total of approximately 12 acres of temporary soil disturbance for the Transmission Facility[4]. In wetland areas and other sensitive sites, matting and spanning will be used to reduce temporary impacts.

41. Permanent disturbance will be limited to installation of new structures and any permanent access, including the creation of approximately two acres of impervious surface for the

[3] The initial application erroneously stated the 12 acre impact would be per structure.

collection substation. No permanent impacts are anticipated from the construction of Transmission Facility towers as no grading is anticipated.

42. Best Management Practices (BMP) will be used during construction. Excavated soils will be used for backfill, as needed, during construction of the collection substation and transmission line. If any soils to be excavated are unsuitable for use as backfill, suitable clean fill will be used. Any excess soils will be reused on site or properly disposed of off-site.

43. Impacts to active agriculture uses have been avoided or minimized to the extent practicable by locating poles in consultation with landowner-farmers so as to minimize inhibiting mechanized farming and by following Department of Agriculture and Markets guidelines for transmission facility construction which have been incorporated into the proposed Certificate Conditions included in Exhibit D.

6. Transportation

44. As explained in Exhibit E-6 (revised) to the Application, the Transmission Facility will have no impact on air transportation and will not require Federal Aviation Administration obstruction lighting. Impacts to roads will be minimal during construction and operation of the Transmission Facility and will include construction traffic accessing the area and encroachment of the road right of way where the Transmission Facility crosses existing roads. No impact is expected during operations when the only traffic will be inspections, tree trimming and repairs if necessary. Because of adjustments to the cable route to address property availability constraints and to avoid wetland impacts there will be four crossings of a Norfolk & Southern (N&S) railroad line near the northern end of the Transmission Facility. The parties have agreed to a Certificate Condition

requiring CWE to file copies of its license agreement with, and construction authorization from, N&S.

7. Vegetation and Wildlife

45. The Transmission Facility will be located within a new utility ROW that extends approximately 15 miles between the Canisteo Wind Farm to the interconnection at the existing Bennet Substation. The proposed ROW corridor is predominately undeveloped agricultural land and woodlots. The proposed corridor includes six vegetative communities, as well as surface waters and disturbed or developed areas.

46. There are no designated Important Bird Areas (IBAs) or Bird Conservations Areas (BCAs) in the vicinity of the Transmission Facility. Keeney Swamp, located approximately 14 miles northwest of the Transmission Facility in Allegany County, is the closest IBA and BCA to the Transmission Facility (Audubon, 2018 and NYSDEC, 2018a).

47. An active Bald Eagle nest is located in the general vicinity of the Transmission Facility. The Transmission Facility will be designed, constructed, and operated in accordance with the Eagle Impact Avoidance Plan included as **Appendix J (Confidential**) to ensure impacts to the Bald Eagle nest are avoided.

48. There will be temporary and permanent impacts to terrestrial plant communities resulting from the construction and operation of the Transmission Facility. Areas associated with the collection substation, transmission line, and temporary access roads may result in either temporary or permanent impacts, or both.

49. The Signatory Parties agree that the Applicant will implement the Invasive Species Management Plan as set forth in **Appendix F**, which will be made part of the approved EM&CP.

8. Noise

50. Overhead transmission line construction will generate noise levels that are periodically audible along the prescribed route of the Transmission Facility, access roads, structure sites, conductor pulling sites, staging areas and marshaling yards. Noise sources will include power tools and construction equipment. The construction equipment to be used is similar to that used during typical public works projects and tree service operations. Construction at substations will include equipment modification and installation of new equipment and is not anticipated to be a significant source of construction noise.

51. Noise generated by the operation of 115kV transmission lines typically contributes little to area noise levels. Under damp conditions high voltage power lines sometimes emit a "crackling sound" due to the small amount of electricity ionizing the moist air near the wires, referred to as the "corona effect." Factors such as conductor voltage, diameter, and surface irregularities affect a conductor's electrical surface gradient and in turn the amount of noise emitted. Corona noise is generally low until the transmission line voltage exceeds around 345 kV to 500 kV. Because the Transmission Facility's design is below the corona threshold, operation of the proposed transmission lines is not expected to result in noise impacts.

52. Noise created by the Collection Substation, which was assessed in the Article 10 proceeding for the CWE Project, is generally described as low-humming, and will attenuate with distance at different rates depending on the transformer dimensions, voltage rating, and design.

Substation maintenance will generate short-term, daytime traffic noise during facility maintenance and inspection that is not expected to result in adverse noise impacts.

9. Communications

53. The Transmission Facility is expected to have no adverse effects on communications (e.g., cellular, television, radio) during construction or operation. The level of EMF outside of the proposed transmission cable corridor is too low to cause interference to communications. Any complaints concerning interference with telephone, television or radio service will be addressed following the Complaint Management Plan included as **Appendix K**.

54. As explained in Exhibit E-5 of the Application, if the operation of the proposed Transmission Facility results in interference levels which pose a problem to off-air reception or other communications, CWE will perform tests to evaluate the grade of reception and enact appropriate measures to eliminate the interference and restore the grade of reception.

55. CWE will identify any existing underground facilities with respect to the Transmission Facility on the EM&CP Plan and Profile drawings based on input from the facility owners and any above ground features. Any existing underground facilities that would potentially interfere with the design of the Transmission Facility will be verified via an actual field mark out and surveyed for accurate placement on the drawings for the EM&CP.

56. An agreement between the Certificate Holder and Wyckoff Gas Storage Company, LLC (Wyckoff) setting forth agreed upon terms and conditions for the Certificate Holder's excavations and/or crossings and other construction activities will be executed. The Agreement will set forth conditions related to, (i) blasting, (ii) use of herbicides on any portions of Wyckoff's pipeline rights-of-way, and (iii) and Certificate Holder's expense and responsibilities relating to

test stations to monitor the effects of electricity transmission on Wyckoff's pipelines at each location where Certificate Holder's transmission line crosses or is within 1500 feet of any such pipelines.

10. Electric and Magnetic Fields

57. The Electromagnetic and Magnetic Field Study (Appendix 4-F of the Application) indicates that the maximum calculated EMF are within the Commission's guidelines in all cases.

58. The proposed Transmission Facility will comply with the electric field limits established in PSC Opinion 78-13 and with the magnetic field limits established in the PSC's September 11, 1990, "Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities." CWE will provide a professional engineer's report with the EM&CP certifying that the Transmission Facility, if built in conformance with the final designs, will comply with the EMF limits.

11. The Availability and Impact of Alternatives

59. The Application and exhibits agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding (listed in **Appendix A**) describe the availability and impact of alternatives to the Transmission Facility and are briefly summarized below. Considering all factors, the Signatory Parties agree that the Transmission Facility route as described in **Appendix B**, which incorporates those alternatives adopted to address wetlands and Northern Harrier habitat, is preferable, on balance, to any of the other alternatives considered. The location is preferred due to its relatively minimal impacts to wetlands, floodplains, topography, and residential areas.

60. Selection of the Collection Substation and transmission line route are interdependent with selection of the POI Switchyard location. Once the preferred locations for the

POI Switchyard and Collection Substation were selected, the alternative routes available for the transmission line could be evaluated. As explained in Exhibit 3 to the Application, CWE evaluated two POI Switchyard alternative locations based on the several factors deemed necessary to permit construction of the necessary facilities. The POI alternatives were not chosen for reasons specific to each.

61. CWE examined one potential alternative for the Collection Substation. Challenges with expanding the existing ROWs and acquiring necessary easements for land on which to build the transmission line precluded additional evaluation of this alternative Collection Substation as a preferred location.

62. CWE evaluated two alternative routes for the transmission line connecting from the proposed Collection Substation location to the proposed POI Switchyard. Both alternative routes presented significant barriers that made them less promising than the proposed transmission line route, including significant expense and engineering uncertainties. The no-action alternative is not a viable alternative to the Transmission Facility because it would prevent CWE from interconnecting the CWE Wind Energy Project. The no-action alternative also is not the best alternative to protect air quality and promote public health because it would deprive the State and region of a source of clean, pollutant-free electricity.

63. The System Reliability Impact Study (SRIS) was issued December 17, 2017. The Facility Studies (FS) were issued June 6, 2019. The SRIS and FS were performed under the applicable NYISO Tariff provisions in Attachment X, Transmission Interconnection Procedures, of NYISO's Open Access Transmission Tariff. The NYISO has indicated that the Transmission Facility will require certain operating restrictions on the Transmission Facility or certain system

upgrades to terminal equipment on nearby existing transmission lines currently interconnected to the Bennet Substation. The confidential SRIS was provided in Exhibit E-4 to the Application.

64. Exhibit 7 (revised) of the Application, provided with the Second Application Supplement, identifies, for each local jurisdiction, every substantive local law provision (ordinance, law, regulation, standard, and requirement) potentially applicable to the Transmission Facility. The Applicants will comply with, and the location of the Transmission Facility as proposed conforms to, all substantive local law provisions that are applicable to the Project. Due to the preemptive effect of PSL Section 130, procedural requirements to obtain any approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply.

D. PUBLIC INTEREST, CONVENIENCE AND NECESSITY

65. The Public Interest served by the Transmission Facility is intrinsic to the public need for the CWE Project. In order to meet New York State's aggressive commitment to carbon-free energy, the volume of renewable energy needed to be produced from new renewable sources, such as wind, will be significant. Each renewable energy project requires an interconnection to New York's bulk power grid so that the clean energy may be used by New York consumers, and contribute to meeting the State's goals for reducing greenhouse gases. Without an interconnection to the existing NYSEG transmission system the CWE Project's 290.7 MW of generating capacity and approximately 805 GWh of annual renewable electricity production could not be delivered to the State's bulk power system. As explained in Exhibit 3 of the Application, the Transmission Facility represents the most reasonable and practicable connection to those lines.

IV. PROPOSED FINDINGS

66. The Signatory Parties agree that the record in this proceeding supports the Proposed Findings set forth in **Appendix C** attached hereto.

V. PROPOSED CERTIFICATE CONDITIONS

67. The Signatory Parties agree that the Proposed Certificate Conditions set forth in **Appendix D** attached hereto are acceptable and appropriate for inclusion in a Certificate of Environmental Compatibility and Public Need authorizing construction and operation of the Project.

VI. ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN

68. The Signatory Parties agree that the Specifications for the Development of the Environmental Management and Construction Plan set forth in **Appendix E** attached hereto are acceptable and appropriate for application to the Project as described herein.

VII. WATER QUALITY CERTIFICATE

69. Because the Transmission Facility will cross wetlands and other waterbodies, CWE will require a permit from the United States Army Corps of Engineers which in turn requires that CWE obtain a Water Quality Certificate from the Commission or its designee. Signatory Parties agree that the record in this proceeding supports the granting of a Water Quality Certification.

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

Canisteo Wind Energy LLC

By: _____

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

NYS Department of Public Service

By: _____

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

NYS Department of Environmental Conservation

By: _____

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

NYS Department of Agriculture and Markets

By: _____

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

James Koegel[5]

[5]The JP addresses issues outside the scope of James Koegel's interest in this proceeding. Mr. Koegel's execution of the JP is therefore limited to issues raised by Mr. Koegel in Case 19-T-0041. Mr. Koegel does not oppose settlement of all other issues addressed in this agreement ("other issues"), but Mr. Koegel's execution of the JP does not encompass the other issues.

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_____

Canisteo Wind Energy LLC

By: _____

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_____

NYS Department of Public Service

By: Brian Ossias 3/10/22

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NYS Department of Environmental Conservation

By: _____

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NYS Department of Environmental Conservation

By: Mark D. Sanza, Deputy Counsel

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NYS Department of Agriculture and Markets

By: _____

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By: _____

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NYS Department of Agriculture and Markets

By: Tara B. Wells
Senior Attorney

IN WITNESS WHEREOF, the Signatory Parties hereto have this day signed and executed this Joint Proposal.

James Koegel

By: _____

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By: _____

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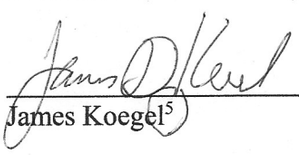

James Koegel[5]

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Case 19-T-0041 Joint Proposal

Appendix A - Evidentiary Record Contents

App. A Part 1 – Evidence posted to DMM

Case 19-T-0041 Canisteo Wind Energy LLC − Article VII
Appendix A – Evidentiary Record Contents
App. A Part 1 - Evidence posted to DMM

Date	Description	Document Title	DMM
1/14/2019	Pre-Filed Testimony	cwe_a7_04_Filing_pre-filed testimony	1
1/14/2019	**APPLICATION -** Table of Contents Exhibits	CWE_TABLE OF CONTENTS_Book-1_Exhibits	1
1/14/2019	Application of CWE for a CECPN	cwe_a7_Exhibit_00_Application	1
1/14/2019	Exh 1 - General Information	cwe_a7_Exhibit_01_General Information	1
1/14/2019	Exh 2 - Location of Facilities	cwe_a7_Exhibit_02_location_of_facilities	1
1/14/2019	Exh 3 - Alternatives	cwe_a7_Exhibit_03_Alternatives	1
1/14/2019	Exh 4 - Environmental Impacts	cwe_a7_Exhibit_04_ Environmental-Impacts	1
1/14/2019	Exh 5 - Project Design Drawings	cwe_a7_Exhibit_05_Project-Design-Drawings	1
1/14/2019	Exh 6 - Economic Effects of Facility	cwe_a7_Exhibit_06_Economic-Effects-of-Facility	1
1/14/2019	Exh 7 - Local Laws and Ordinances	cwe_a7_Exhibit_07_local laws and ordinances	1
1/14/2019	Exh 8 - Other Pending Fillings	cwe_a7_Exhibit_08_Other-Pending-Fillings	1
1/14/2019	Exh 9 - Cost of Proposed Facility	cwe_a7_Exhibit_09_Cost-of-Proposed-Facility_Redacted	1
1/14/2019	Exh E1 - Description of Facility	cwe_a7_Exhibit_e1_Description-of-Facility	1
1/14/2019	Exh E2 - Other Facilities	cwe_a7_Exhibit_e2_Other-Facilities	1
1/14/2019	Exh E3 - Underground Construction	cwe_a7_Exhibit_e3_Underground-Construction	1
1/14/2019	Exh E4 - Engineering Justification	cwe_a7_Exhibit_e4_Engineering-Justification	1
1/14/2019	Exh E5 - Effect On Communications	cwe_a7_Exhibit_e5_Effect-On-Communications	1
1/14/2019	Exh E6 - Effect On Transportation	cwe_a7_Exhibit_e6_Effect-On-Transportation	1
1/14/2019	CWE Application Table of Contents Figures	CWE_TABLE OF CONTENTS_Book-1_Figures	1
1/14/2019	Fig 2-1 - Location of Facilities	cwe_a7_Figure_2-1_Location of Facilities	1
1/14/2019	Fig 2-2 - Location of Facilities at 250,000 scale	cwe_a7_Figure_2-2_Location of Facilities at 250,000 scale	1
1/14/2019	Fig 2-3 - Location of Facilities on Aerial Imagery	cwe_a7_Figure_2-3_Location of Facilities on Aerial Imagery	1
1/14/2019	Fig 3-1 - Alternatives	cwe_a7_Figure_3-1_Alternatives	1
1/14/2019	Fig 4-1 - FEMA Floodplains	cwe_a7_Figure_4-1_FEMA-Floodplains	1
1/14/2019	Fig 4-2 - Agricultural Districts	cwe_a7_Figure_4-2_Agricultural-Districts	1
1/14/2019	Fig 4-3 - Vegetative Communities Part 1	cwe_a7_Figure_4-3_Vegetative-Communities_Part1	1
1/14/2019	Fig 4-3 - Vegetative Communities Part 2	cwe_a7_Figure_4-3_Vegetative-Communities_Part2	1
1/14/2019	Fig 4-3 - Vegetative Communities Part 3	cwe_a7_Figure_4-3_Vegetative-Communities_Part3	1
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Case 19-T-0041 Joint Proposal

Appendix A - Evidentiary Record Contents

App. A Part 2 - Responses to Information Requests

REDACTED CONFIDENTIAL DOCUMENT

Case 19-T-0041 Canisteo Wind Energy LLC − Article VII
Appendix A – Evidentiary Record Contents
App. A Part 2 - Response to Information Requests

Date	Description	Document Title	DMM
1/31/2020	CWE Response to DEC-1 Wetlands	-	-
12/4/2020	DEC Response to CWE-DEC-IR01 Threatened and Endangered Species (redacted)	-	-
4/12/2021	CWE Response to IR DPS-1 EMF Study	-	-
11/24/2021	CWE Response to IR DPS-2 EMF Study	-	-
12/16/2021	CWE Response to IR DPS-3 Impacts to Existing Railway w/Attachments	-	-
12/30/2021	CWE Response to IR DPS-4 Cultural Resources w/Attachments	-	-
2/2/2022	CWE Response to IR DPS-5 Proximity to Hornell Sewer Facilities	-	

NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC
INTERROGATORY/DOCUMENT REQUEST CWE-DEC-1

Date of Request: January 21, 2020

Request No.: CWE-DEC-1

Requested of: Applicant-Canisteo Wind Energy, LLC

Subject: Wetlands

Pursuant to 6 NYCRR § 663.5, the Applicant must first avoid all impacts to wetlands HR-7 and HR-8 and their regulated adjacent areas to the maximum extent practicable. Can impacts to wetlands HR-7 and HR-8 and their regulated adjacent areas be avoided? If impacts to wetlands HR-7 and HR-8 and their regulated adjacent areas cannot be avoided, please provide a justification as to why avoidance is not practicable. If impacts to wetlands HR-7 and HR-8 and their regulated adjacent areas cannot be avoided, explain how impacts to such regulated resources will be minimized to the maximum extent practicable.

Response:

The proposed transmission line route impacts wetland HR-7 on parcel 166.00-01-014.000 located in the Town of Hornellsville. The Applicant has discussed multiple routes through this property with the landowner who actively farms this property. The landowner specified the proposed transmission line route in his lease agreement leaving the remainder of his property free for ongoing agricultural operations or other development activities. The Applicant does not have sufficient land control on adjacent properties nor eminent domain authority to pursue alternate routes to the point of interconnection (POI) at Bennett Substation. Since this wetland cannot be avoided, impacts have been and will be minimized by siting the line as close as possible to the edge of the wetland, the use of single pole structures, conducting all work on timber matting to prevent and minimize temporary soil

disturbance, and placing all temporarily excavated soils on timber matting. Further, as part of the EM&CP CWE will submit a final Spill Prevention, Containment, and Counter Measures (SPCC) Plan that will minimize the potential for unintended releases of petroleum and other hazardous chemicals.

The proposed transmission line route impacts wetland HR-8 on parcels 166.00-01-015.100 and 182.00-02-011.100 in the Town of Hornellsville. This route was chosen to satisfy land control constraints, address landowner preferences, minimize impacts to wetland HR-8, and avoid the DEC Superfund site located adjacent to the proposed route. The Applicant does not have sufficient land control on adjacent properties nor eminent domain authority to pursue alternate routes that would completely avoid HR-8 and still allow access to the POI. Since this wetland cannot be avoided, impacts have been and will be minimized by the use of single pole structures, conducting all work on timber matting to prevent and minimize temporary soil disturbance, and placing all temporarily excavated soils on timber matting. Further, as part of the EM&CP CWE will submit a final Spill Prevention, Containment, and Counter Measures (SPCC) Plan that will minimize the potential for unintended releases of petroleum and other hazardous chemicals.

During the EM&CP phase the Applicant will work with DEC Staff on the final pole locations within these wetlands to further minimize potential impacts and to achieve the largest spans practicable. The Applicant is open to continuing discussions with DEC staff on ways to further minimize impacts on these wetlands.

Name of Person(s) Preparing Response: Jacob Runner and Gordon Woodcock
Dated: January 31, 2020

REDACTED

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of	:	
CANISTEO WIND ENERGY LLC	:	Case 19-T-0041
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	

CANISTEO WIND ENERGY LLC
INTERROGATORY/DOCUMENT REQUEST

Date of Request: November 24, 2020

Request No.: CWE-DEC-IR01

Requested of: NYS Department of Environmental Conservation Staff

Subject: Threatened and Endangered Species

1. Please confirm

(a) the date(s) of the element occurrence(s);

Northern Harrier (NOHA) breeding activity was documented for the element occurrence at this location on 6/21/2005. NOHA have also been documented on the Project site regularly over the past several years, including during surveys conducted by the Applicant in 2017-2018 that documented over 45 NOHA observations. A given area is considered occupied habitat as long as appropriate habitat exists at the site, or until at least 3 years of surveys are done to show that the species no longer occurs at the location. Please note that this list of observations is not exhaustive; numerous observations have been documented throughout the Applicant's surveys in recent years, DEC records, and Heritage reports. The Department reserves the right to update this response throughout this Article VII process.

(b) the location(s); and

The location of the above referenced element occurrence includes [redacted] *NOHA have also been observed in multiple other locations at the Project site.*

(c) the behaviors observed (i.e. breeding vs. wintering).

Breeding.

2. (a) Please confirm the extent of occupied habitat and associated buffers DEC staff has identified based on the facts provided in the response to # 1;

Please see attached map. The field area where Northern Harrier was identified is buffered by 0.5 miles to form the occupied habitat polygon (the larger polygon). Within this polygon open areas greater than or equal to 25 acres are considered occupied habitat.

(b) If other facts or opinions were material to the determination please identify them.

Occupied habitat determinations are based on existing species records, site visits, aerial images, and photos. Given those factors, and for reasons stated above, this area still contains suitable habitat for Northern Harrier.

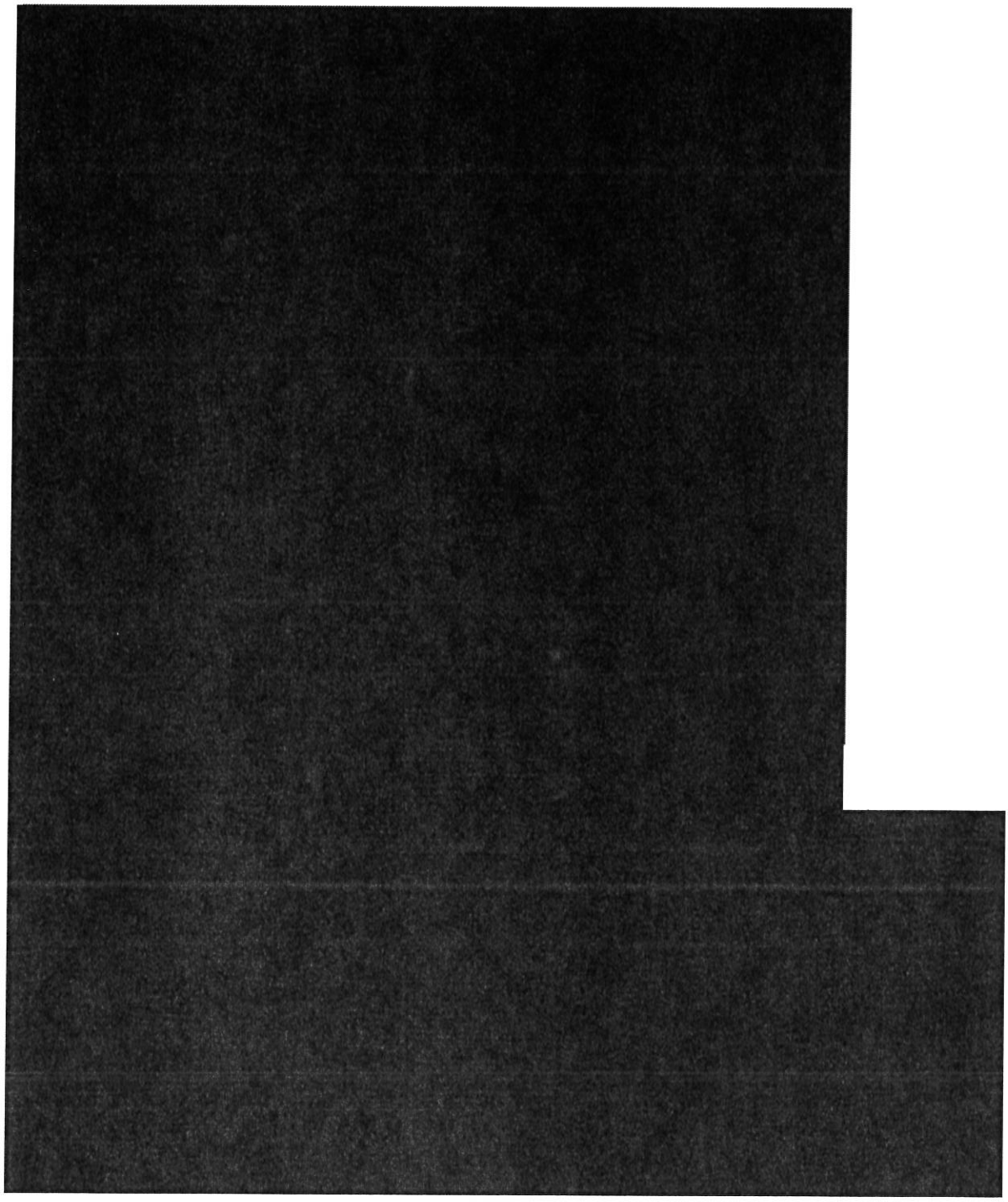
3. Please provide guidance on the anticipated extent of habitat take associated with proposed activity (e.g. what buffer should be applied to the pole locations or powerline centerline to determine the area of take).

A 100-meter buffer around the transmission line within open habitats would be used to calculate habitat take. This buffer could potentially be reduced for portions of the line that are immediately adjacent to forested habitat as placement of the line adjacent to forest can be considered minimization of impacts. Depending on the details surrounding the Debt for Nature easement within the occupied habitat, removing this parcel from the easement and stopping related management may result in additional take of habitat.

Name of Person(s) Preparing Response: Heidi Kennedy
Date: December 4, 2020

REDACTED

Northern Harrier Occupied Habitat along [redacted]
Canisteo Wind Project



NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC RESPONSE TO INTERROGATORY/DOCUMENT REQUEST DPS-1

Date of Request: April 1, 2021

Request No.: DPS-1

From: DPS Staff – Craig Bury

Subject: EMF Study

1. For "Structure 88" shown in "cwe_a7_App_5a-Structure-Locations-and-Heights", provide the following:
   a. Electric and Magnetic fields at 100% Loading, as provided in Table 3-1B of "cwe_a7_App_4j_EMF-Study".

RESPONSE:

The details for Structure 88 as shown in cwe_a7_App_5a-Structure-Locations-and-Heights have been changed since the application was filed. Structure 88 is now a steel structure and has the following specifications:

Longitude	Latitude	Elevation (ft)	Structure Height (ft)	ROW Width (ft)
77°35'17.863"W	42°11'30.598"N	2,032.2	84.1	80

Based on the updated pole specifications, Table 3-1B is updated below to show the E and M Field values ahead and back of str 88 at 100% loading.

TABLE 3-1B Electric and Magnetic Fields Results at 100% Loading								
ROW Width (ft.)		-40	-20	-10	0	10	20	40
Span 87-88 - 80'	Electric Field (kv/m)	0.856	0.936	0.642	0.25	0.642	0.936	0.856
	Magnetic Field (mG)	92.152	140.081	158.294	164.589	158.294	140.081	92.152
Span 88-89 - 80'	Electric Field (kv/m)	0.713	0.636	0.397	0.132	0.397	0.636	0.713
	Magnetic Field (mG)	80.703	112.253	122.875	126.199	122.875	112.253	80.703

b. All assumed modeling parameters used in the PLS-CADD software, to calculate the Electric and Magnetic fields provided in 1a.

RESPONSE:

A current of 1458 amps on 2-bundle ACSR "Bittern" conductor with 18" bundle spacing was entered with a corresponding conductor temperature under winter normal conditions of 72°F and maximum wire sag display condition. A maximum operating voltage phase to phase of 121 kV was entered including a temporary overvoltage factor of 1.05. The EMF was observed at the station location in the span(s) where the wire sag was closest to the terrain (lowest clearance point).

Name of Person(s)
Preparing Response: Dan Zacharda, ECI Date: 04/12/2021

NEW YORK STATE
PUBLIC SERVICE COMMISSION

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC RESPONSE TO INTERROGATORY/DOCUMENT REQUEST DPS-2

Date of Request: November 17, 2021

Request No.: DPS-2

From: DPS Staff – Craig Bury

Subject: EMF Study

Information Requested:

1. Regarding "Structure 60" shown in "cwe_a7_App_5a-Structure-Locations-and-Heights" rev1, of the proposed transmission line, provide the following:
   a. Magnetic fields at 100% Loading, as provided in Table 3-1B of "cwe_a7_App_4j_EMF-Study".

RESPONSE:

Structure 60 has the following specifications:

Longitude	***Latitude***	***Elevation (ft)***	***Structure Height (ft)***	***ROW Width (ft)***
77d35'10.167"W	*42d14'25.076"N*	*1410.2*	*60*	*100*

Table 3-1B is updated below to show the E and M Field values between str 59 and 60 at 100% loading.

TABLE 3-1B Electric and Magnetic Fields Results at 100% Loading								
ROW Width (ft.)		*-50*	*-30*	*-15*	*0*	*15*	*30*	*50*
Span 59-60 - 100'	*Electric Field (kv/m)*	*0.793*	*1.511*	*1.446*	*0.612*	*1.446*	*1.511*	*0.793*
	Magnetic Field (mG)	*85.497*	*163.499*	*241.172*	*275.124*	*241.172*	*163.499*	*85.497*

a. All assumed modeling parameters used in the PLS-CADD software, to calculate the Electric and Magnetic fields provided in 1a.

RESPONSE:

A current of 1458 amps on 2-bundle ACSR "Bittern" conductor with 18" bundle spacing was entered with a corresponding conductor temperature under winter normal conditions of 72°F. A maximum operating voltage phase to phase of 121 kV was entered including a temporary overvoltage factor of 1.05. The EMF was observed at the station location in the span(s) where the wire sag was closest to the terrain (lowest clearance point).

Name of Person(s) Preparing Response: Dan Zacharda, ECI **Date: 11/22/2021**

NEW YORK STATE
PUBLIC SERVICE COMMISSION

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC RESPONSE TO INTERROGATORY/DOCUMENT REQUEST DPS-3

Date of Request: **December 2, 2021**

Request No.: **DPS-3**

From: **DPS Staff – John Quackenbush**

Subject: **Impact to Existing Railway**

Information Requested:

1. According to Exhibit E-6 (and associated Facility drawings), the newly proposed Transmission Facility route will cross one active rail transport line (averaging between six to ten trains a day, all but one of which being classified as "priority") owned by the Norfolk Southern Railway Co. (NSR), in 4 locations in the Towns of Canisteo and Hornellsville. And it is noted that "[b]ecause installation of the crossings will be overhead and conducted in conformance with NSR requirements, impacts to rail transport due to the construction or operation of the Transmission Facility will be avoided." Furthermore, the exhibit states that Invenergy has an executed license agreement with NSR permitting the crossings by the Transmission Facility. Please provide the following information regarding impacts to NSR:

a. A copy of the executed license agreement with NSR; explain if the agreement covers general installation protocol or if it is specific to the proposed Transmission Facility crossing locations and construction on railway property;

RESPONSE:

Location-specific details of each crossing of NSR facilities or right-of-way will be addressed in the crossing agreement. Attached as Exhibit A is a crossing agreement Invenergy signed with respect to a crossing associated with an earlier transmission line layout. Exhibit B is an October 29, 2019 email sent by NSR's engineering consultant to Invenergy acknowledging receipt of the signed agreement. Invenergy and NSR have agreed to amend the agreement to include the four crossings now intended once engineering is complete so that the crossing details can be incorporated.

b. *Any available NSR standards, guidelines, or similar documentation that outlines NSR requirements and recommendations for crossing the railroad and working on or near railway property; and*

RESPONSE:

Exhibit C is a copy of NSR's "Specifications for Wireline Occupancy of Norfolk Southern Property".

c. *A summary of any consultation results between NSR and Invenergy regarding general protocol for crossing the railroad and working on or near railway property.*

RESPONSE:

Consultations with NSR and its engineering consultant AECOM have led to the agreement provided as Exhibit A and the mutual understanding that the agreement will be amended once the crossings needed for the alignment have been engineered and depicted in the required drawings.

Name of Person(s)
Preparing Response: Marguerite Wells, Invenergy **Date: December 16, 2021**

EXHIBIT A

THIS AGREEMENT, dated as of the _____ day of _____, 20___ is made and entered into by and between

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is Three Commercial Place, Norfolk, Virginia 23510 (hereinafter called "Railway"); and

CANISTEO WIND ENERGY LLC, a Delaware limited liability company, whose mailing address is One South Wacker, Suite 1800, Chicago, Illinois 60606 (hereinafter called "Licensee").

WITNESSETH

WHEREAS, Licensee proposes to install, construct, maintain, operate and remove two (2) aerial crossings of 115kv electric power circuit (hereinafter called the "Facilities") located in, under and across the right-of-way or property and any tracks of Railway, at or near:

- Milepost SR-326.10, Southern Tier Line
- Latitude N42.268256, Longitude W77.587978
- Canisteo, Steuben County, New York
- Valuation Section 8, Map 117, Stationing 17221+17

the same to be located in accordance with and limited to the installation shown on print of drawings marked Exhibit A, Exhibit B, Exhibit C, and Exhibit D, received by Railway on July 24, 2019, attached hereto and made a part hereof; and

WHEREAS, Licensee desires a license to use such right-of-way or property of Railway for the installation, construction, maintenance, operation and removal of the Facilities.

NOW, THEREFORE, for and in consideration of the premises, the payment of a non-refundable, non-assignable one-time fee in the amount of NINETEEN THOUSAND AND 00/100 DOLLARS ($19,000.00) to cover the Risk Financing Fee (as hereinafter defined) in the amount of $1,000.00 and a one-time license fee in the amount of $18,000.00, and the covenants hereinafter set forth, Railway hereby permits and grants to Licensee, insofar as Railway has the right to do so, without warranty and subject to all encumbrances, covenants and easements to which Railway's title may be subject, the right to use and occupy so much of Railway's right-of-way or property as may be necessary for the installation, construction, maintenance, operation and removal of the Facilities (said right-of-way or property of Railway being hereinafter collectively called the "Premises"), upon the following terms and conditions:

1. Use and Condition of the Premises. The Premises shall be used by Licensee only for the installation, construction, maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Licensee accepts the Premises in their current "as is" condition, as suited for the operation of the Facilities, and without the benefit of any improvements to be constructed by Railway.

2. Installation of the Facilities; Railway Support. Licensee shall, at its expense, install, construct, maintain and operate the Facilities on a lien-free basis and in such a manner as will not interfere with the operations of Railway, or endanger persons or property of Railway. Such installation, construction, maintenance and operation of the Facilities shall be in accordance with (a) the plans and specifications (if any) shown on the prints attached hereto and any other specifications prescribed by Railway, (b) applicable laws, regulations, ordinances and other requirements of federal, state and local governmental authorities, and (c) applicable specifications of the National Electric Safety Code, when not in conflict with the applicable plans, specifications, laws, regulations, ordinances or requirements mentioned in (a) and (b), above. Any change to the character, capacity or use of the Facilities shall require execution of a new agreement.

3. Railway Support. Railway shall, at Railway's option, furnish, at the sole expense of Licensee, labor and materials necessary, in Railway's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the installation, construction, maintenance, repair, or removal of the Facilities.

4. Electronic Interference. If the Facilities cause degradation of Railway's signal, communications and other electronic systems (hereinafter collectively called the "Electronic Systems") or endanger Railway's personnel or other individuals entitled to be on or about the Premises, through inductive or electrostatic interference or otherwise, Licensee, at its expense, will modify the Facilities to the satisfaction of Railway so as to eliminate such degradation or danger. Such modifications may include, without limiting the generality of the foregoing, transposing circuits or providing additional shielding, reactance or other corrective measures deemed necessary by Railway. The provisions of this paragraph 4 shall apply to the Electronic Systems existing as of the date of this Agreement and to any Electronic Systems that Railway may install in the future.

5. Corrective Measures. If Licensee fails to take any corrective measures requested by Railway in a timely manner, or if an emergency situation is presented which, in Railway's judgment, requires immediate repairs to the Facilities, Railway, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

6. Railway Changes. If Railway shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of Railway, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, Licensee shall, upon thirty (30) days prior written notice from Railway and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of Railway, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of Railway.

7. Assumption of Risk. Unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway, Licensee hereby assumes all risk of damage to the Facilities and Licensee's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and Licensee hereby

indemnifies Railway, its officers, directors, agents and employees from and against any liability for such damage.

8. Entry Upon Premises. Prior to commencement of any work to be performed on or about the Premises, Licensee shall notify the appropriate Division Engineer for the scheduling of protection and inspection. Within seventy-two (72) hours after the Division Engineer's actual receipt of such notification, the Division Engineer shall review the necessity and availability of flagmen for the proposed work and advise Licensee of such matters and the estimated cost therefor. No work shall be permitted on or about the Premises without the presence of Railway's flagman or the Division Engineer's waiver of the requirement for flag protection. Entry on or about the Premises or any other Railway right-of-way without the Division Engineer's prior approval shall be deemed trespassing. Licensee agrees to pay Railway, within thirty (30) days after delivery of an invoice therefor, for any protection and inspection costs incurred by Railway, in Railway's sole judgment, during any such entry.

9. Liens; Taxes. Licensee will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of Railway, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving Licensee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, Licensee shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by Licensee within the Premises. In the event that any such lien shall attach to the Premises or Licensee shall fail to pay such taxes, then, in addition to any other right or remedy available to Railway, Railway may, but shall not be obligated to, discharge the same. Any amount paid by Railway for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by Licensee to Railway within ten (10) days after Railway's demand therefor.

10. Indemnification. Licensee hereby agrees to indemnify and save harmless Railway, its officers, directors, agents and employees, from and against any and all liabilities, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and property damage to whomsoever or whatsoever occurring (hereinafter collectively called "Losses") that arise in any manner from (a) the installation, construction, maintenance, operation, presence or removal of, or the failure to properly install, construct, maintain, operate or remove, the Facilities, or (b) any act, omission or neglect of Licensee, its agents, servants, employees or contractors in connection therewith, unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway.

11. Insurance.

(a) Without limiting in any manner the liability and obligations assumed by Licensee under any other provision of this Agreement, and as additional protection to Railway, Licensee shall, at its expense, pay the Risk Financing Fee set forth in subparagraph (i) below and shall procure and maintain with insurance companies satisfactory to Railway, the insurance policies described in subparagraphs (ii) and (iii).

(i) Upon execution of this Agreement, Licensee shall pay Railway a risk financing fee of $1,000.00 per installation (herein called the "Risk Financing Fee") to provide Railroad Protective Liability Insurance or such supplemental insurance (which may be self-insurance) as Railway, in its sole discretion, deems to be necessary or appropriate.

(ii) Prior to commencement of installation or maintenance of the Facilities or entry on Railway's property, Licensee, and its contractor if it employs one, shall procure and maintain for the course of said installation and maintenance, a general liability insurance policy naming Railway as an additional insured, and containing products and completed operations and contractual liability coverage, with a combined single limit of not less than $1,000,000 for each occurrence.

(iii) Prior to commencement of any subsequent maintenance of the Facility during the term of this Agreement, unless Railway elects to make available and Licensee pays the then current risk financing fee for each affected installation, Licensee, or its contractor if it employs one, shall furnish Railway with an original Railroad Protective Liability Insurance Policy naming Railway as the named insured and having a limit of not less than a combined single limit of $2,000,000 each occurrence and $6,000,000 aggregate. Such policy shall be written using Insurance Services Offices Form Numbers CG 00 35 01 10 01.

(b) All insurance required under preceding subsection (a) shall be underwritten by insurers and be of such form and content as may be acceptable to Railway. Prior to commencement of installation or maintenance of the Facilities or any entry on Railway's property, Licensee, or its contractor if it employs one, shall: furnish to Railway's Risk Manager, Three Commercial Place, Norfolk, Virginia 23510-2191 (or such other representative and/or address as subsequently given by Railway to Licensee in writing), for approval, the original policy described in subsection (a)(iii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(ii).

12. Environmental Matters. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations, ordinances or other requirements of federal, state and local governmental authorities relating to (a) the installation, construction, maintenance, operation or removal of the Facilities, including notification and reporting of any releases, and (b) any contamination of any property, water, air or groundwater arising or resulting, in whole or in part, from Licensee's operation or use of the Premises pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install, construct, maintain, operate or remove the Facilities. Licensee agrees to indemnify and hold harmless Railway from and against any and all fines, penalties, demands or other Losses (including attorneys' fees) incurred by Railway or claimed by any person, company or governmental entity relating to (a) any contamination of any property, water, air or groundwater due to the use or presence of the Facilities on the Premises, (b) Licensee's violation of any laws, regulations or other requirements of federal, state or local governmental authorities in connection

with the use or presence of the Facilities on the Premises or (c) any violation of Licensee's obligations imposed under this paragraph. Without limitation, this indemnity provision shall extend to any cleanup and investigative costs relating to any contamination of the Premises arising or resulting from, in whole or in part, Licensee's use of the Facilities or any other activities by or on behalf of Licensee occurring on or about the Premises. Licensee further agrees not to dispose of any trash, debris or wastes, including hazardous waste, on the Premises and will not conduct any activities on the Premises which would require a hazardous waste treatment, storage or disposal permit.

13. Assignments and Other Transfers.

(a) Licensee shall not assign, transfer, sell, mortgage, encumber, sublease or otherwise convey (whether voluntarily, involuntarily or by operation of law) this Agreement or any interest therein, nor license, mortgage, encumber or otherwise grant to any other person or entity (whether voluntarily, involuntarily or by operation of law) any right or privilege in or to the Premises (or any interest therein), in whole or in part, without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Any such assignment or other transfer made without Railway's prior written consent shall be null and void and, at Railway's option, shall constitute an immediate default of this Agreement. Notwithstanding the foregoing, upon prior written notice to Railway, Licensee may assign this Agreement to a parent, a wholly-owned subsidiary of Licensee or a wholly-owned subsidiary of Licensee's parent without Railway's consent; provided, however, that no such assignment shall relieve Licensee of its obligations under this Agreement.

(b) Railway shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in or to the Premises. From and after the effective date of any such assignment or transfer, Railway shall be released from any further obligations hereunder; and Licensee shall look solely to such successor-in-interest of Railway for the performance of the obligations of "Railway" hereunder.

14. Meaning of "Railway". The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term also shall include Railway's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of Railway and their respective officers, directors, agents and employees.

15. Default; Remedies.

(a) The following events shall be deemed to be events of default by Licensee under this Agreement:

(i) Licensee shall fail to pay the Fee or any other sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) Licensee shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to Licensee;

(iii) Licensee shall become insolvent or unable to pay its debts as they become due, or Licensee notifies Railway that it anticipates either condition;

(iv) Licensee takes any action to, or notifies Railway that Licensee intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against Licensee under any such statute; or

(v) A receiver or trustee shall be appointed for Licensee's license interest hereunder or for all or a substantial part of the assets of Licensee, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by Licensee, whether enumerated in this paragraph 15 or not, Railway shall have the option to pursue any remedies available to it at law or in equity without any additional notices to Licensee. Railway's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event Licensee shall immediately surrender the Premises to Railway; (ii) entry into or upon the Premises to do whatever Licensee is obligated to do under the terms of this License, in which event Licensee shall reimburse Railway on demand for any expenses which Railway may incur in effecting compliance with Licensee's obligations under this License, but without rendering Railway liable for any damages resulting to Licensee or the Facilities from such action; and (iii) pursuit of all other remedies available to Railway at law or in equity, including, without limitation, injunctive relief of all varieties.

16. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, Railway shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to Licensee written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If Licensee shall discontinue the use or operations of the Facilities; or

(b) If Railway shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If Railway, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If Railway, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of Railway, or with the present or future use of such property by Railway, its lessees, affiliates, successors or assigns, for their respective purposes.

17. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to Licensee hereunder shall, at the sole option of Railway, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Railway, and Licensee shall have no claim thereto, the same being hereby expressly waived by Licensee.

18. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of Licensee. Upon the expiration or termination of this Agreement, Licensee shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by Railway, Licensee shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event Licensee shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by Licensee, and the same shall become the property of Railway for Railway to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to Licensee therefor; provided, however, in the event Railway elects to remove the Facilities, Railway, in addition to any other legal remedy it may have, shall have the right to recover from Licensee all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the expiration or termination of this Agreement, whether by lapse of time or otherwise, shall not relieve Licensee from Licensee's obligations accruing prior to the expiration or termination date, and such obligations shall survive any such expiration or other termination of this Agreement.

19. Entire Agreement. This Agreement contains the entire agreement of Railway and Licensee and supersedes any prior understanding or agreement between Railway and Licensee respecting the subject matter hereof; and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of any force or effect.

20. Attorneys' Fees. If Railway should bring any action under this Agreement, or consult or place the Agreement or any amount payable by Licensee hereunder, with an attorney concerning or for the enforcement of any of Railway's rights hereunder, then Licensee agrees in each and any such case to pay to Railway all costs, including but not limited to court costs and attorneys' fees, incurred in connection therewith.

21. Severability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall

not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

22. Modifications; Waiver; Successors and Assigns. This Agreement may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. No provision of this Agreement shall be deemed to have been waived by Railway unless such waiver shall be in a writing signed by Railway and addressed to Licensee, and no such waiver shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect. No nor shall any custom or practice that may evolve between the parties in the administration of the terms hereof shall be construed to waive or lessen the right of Railway to insist upon the performance by Licensee in strict accordance with the terms hereof. The terms and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. If there shall be more than one Licensee, the obligations hereunder imposed upon Licensee shall be joint and several.

23. Notice. Any and all other notices, demands or requests by or from Railway to Licensee, or Licensee to Railway, shall be in writing and shall be sent by (a) postage paid, certified mail, return receipt requested, or (b) a reputable national overnight courier service with receipt therefor, or (c) personal delivery, and addressed in each case as follows:

If to Railway:
c/o Norfolk Southern Corporation
1200 Peachtree Street, NE – 12th Floor
Atlanta, Georgia 30309-3504
Attention: Director Real Estate

If to Licensee:
Canisteo Wind Energy LLC
One South Wacker, Suite 1800
Chicago, Illinois 60606
Attention:

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

24. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this License are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of Railway and Licensee under this Agreement is independent of each other covenant under this Agreement. No default in performance of any

covenant by a party shall excuse the other party from the performance of any other covenant. The provisions of Paragraphs 7, 9, 10, 12 and 18 shall survive the expiration or earlier termination of this Agreement.

25. Limitations of Grant. Licensee acknowledges that the license granted hereunder is a quitclaim grant, made without covenants, representations or warranties with respect to Railway's (a) right to make the grant, (b) title in the Premises, or (c) right to use or make available to others the Premises for the purposes contemplated herein. Railway is the owner and/or holder of the Premises subject to the terms and limitations under which it is owned or held, including without limitation conditions, covenants, restrictions, easements (including any pre-existing fiber optic easements or licenses), encroachments, leases, licenses, permits, mortgages, indentures, reversionary interests, fee interests, zoning restrictions and other burdens and limitations, of record and not of record, and to rights of tenants and licensees in possession, and Licensee agrees that the rights licensed hereunder are subject and subordinate to each and all of the foregoing. Licensee accepts this grant knowing that others may claim that Railway has no right to make it, and Licensee agrees to release, hold harmless and indemnify (and, at Railway's election, defend, at Licensee's sole expense, with counsel approved by Railway) Railway, its affiliated companies, and its and their respective officers, directors, agents and employees, from and against any detriments to, or liabilities of, any type or nature arising from such claims, including punitive damages and any forfeitures declared or occurring as a result of this grant.

26. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, Railway shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by Licensee, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or lost profits. It is understood and agreed by Licensee that Railway cannot and will not make any warranties, representations or guarantees that Licensee's communication system (if any), as located on Railway's property, will not be interrupted.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each part being an original, as of the date first above written.

Witness:

NORFOLK SOUTHERN RAILWAY COMPANY

_____
As to Railway

By: _____
Real Estate Manager

Witness:

CANISTEO WIND ENERGY LLC

_____
As to Licensee
Marguerite Wells

By: _____

Title: Senior Vice President
Canisteo Wind Energy LLC

Activity Number 1273873
JH: August 8, 2019
File No. 1768247v1

INVENERGY 115 kV	SOURCE	MIN.	X
60°F	NSCE-4	36.0'	68'
MOT (212°F)	NESC	28.1'	61'

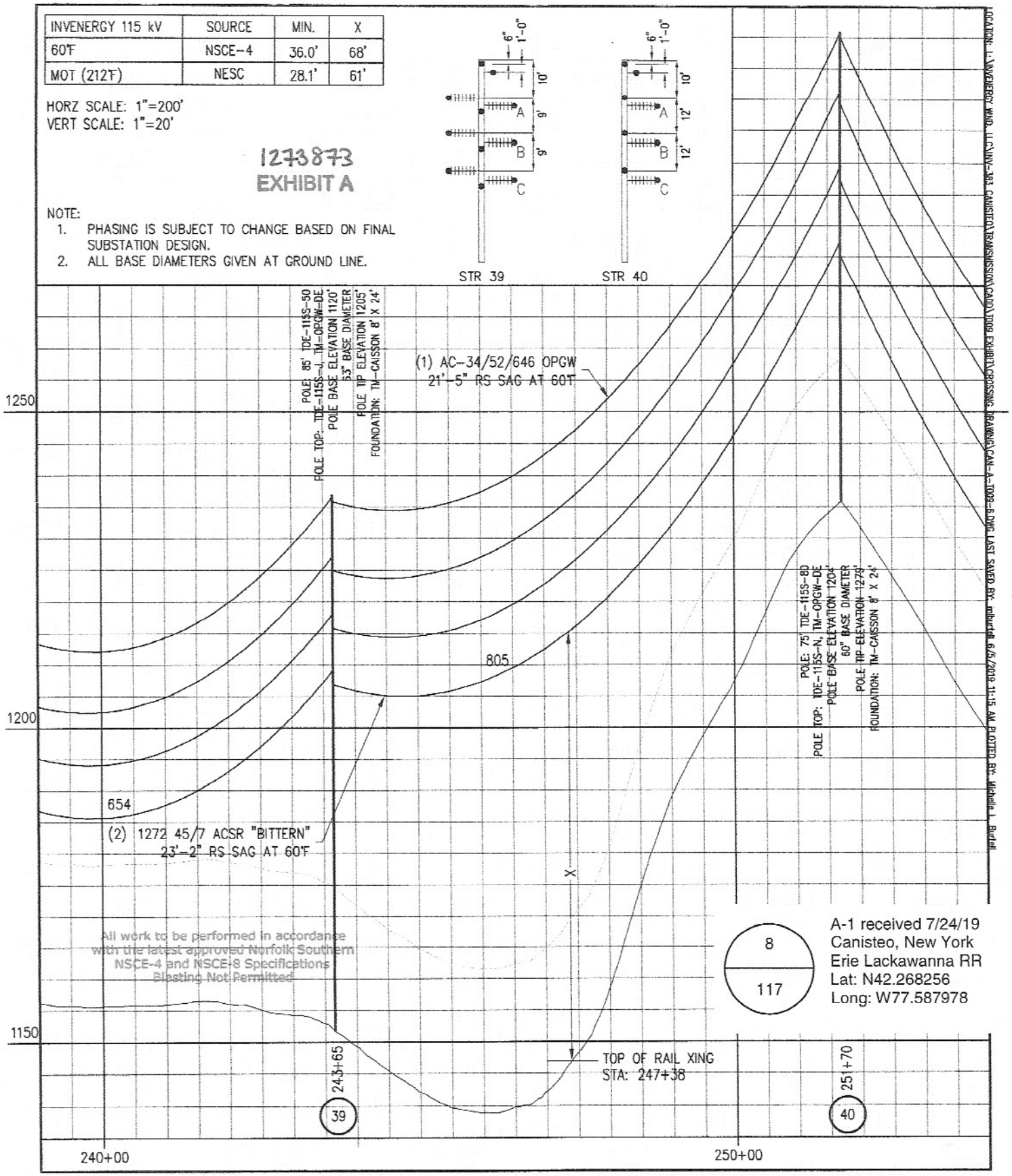
HORZ SCALE: 1"=200'
VERT SCALE: 1"=20'

1273873
EXHIBIT A

NOTE:
1. PHASING IS SUBJECT TO CHANGE BASED ON FINAL SUBSTATION DESIGN.
2. ALL BASE DIAMETERS GIVEN AT GROUND LINE.

STR 39

STR 40



All work to be performed in accordance with the latest approved Norfolk Southern NSCE-4 and NSCE-8 Specifications
Blasting Not Permitted

8
117

A-1 received 7/24/19
Canisteo, New York
Erie Lackawanna RR
Lat: N42.268256
Long: W77.587978

LOCATION: L:\INVENERGY_WND_LLC\INVY-383_CANISTEO\TRANSMISSION\CAD\LT009_EXHIBIT\CROSSING_DRAWING\CAN-A-T009-6.DWG LAST SAVED BY: mburtell 6/5/2019 11:15 AM PLOTTED BY: Michelle L. Burtell

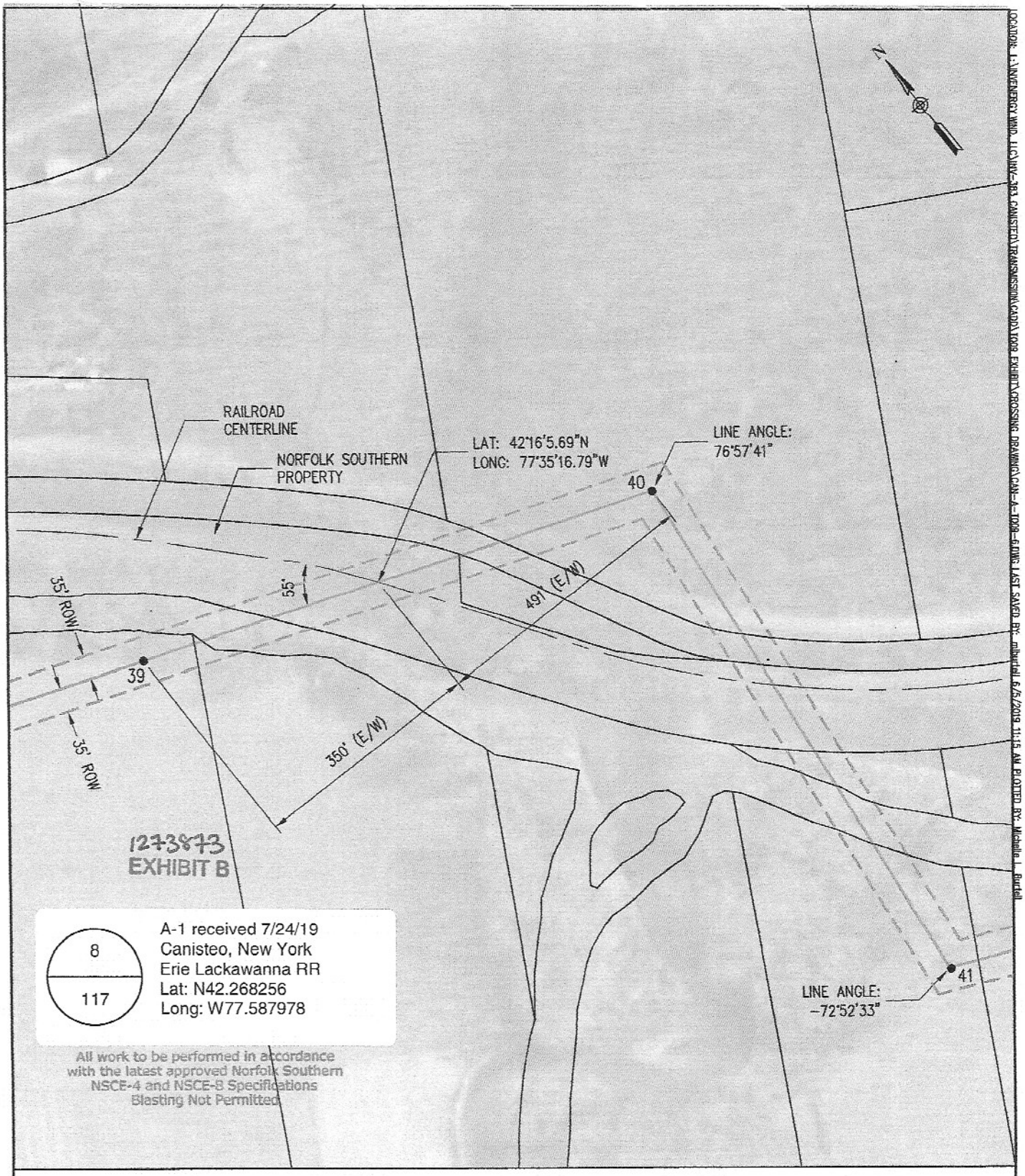
ECI ENGINEERING SERVICES, P.C.

Invenergy

ENGINEERING RECORD		DATE
DRAWN	M. BURTELL	06/03/19
DESIGNED	J. SELENSKY	06/03/19
CHECKED	H. DELL	06/14/19
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

CANISTEO 115 kV TRANSMISSION LINE
RR CROSSING 39-40
PROFILE VIEW

DWG. NAME: CAN-A-T009-6 REVISION NO.: A



LOCATION: L:\INVENERGY WIND, LLC\INV-383, CANISTEO\TRANSMISSION\CAD\D1009, EXHIBITS\CROSSING DRAWING\CAN-A-1009-6.DWG LAST SAVED BY: mburtell 6/5/2019 11:15 AM PLOTTED BY: Michelle L. Burtell

NOTES:
1. NORFORK SOUTHERN TRANSMISSION, SIGNAL, CATENARY, AND THE THIRD RAIL FACILITIES ARE NOT PRESENT.
2. FULL ROW WIDTH TO BE CLEARED OF VEGETATION.

SCALE: 1"=200'

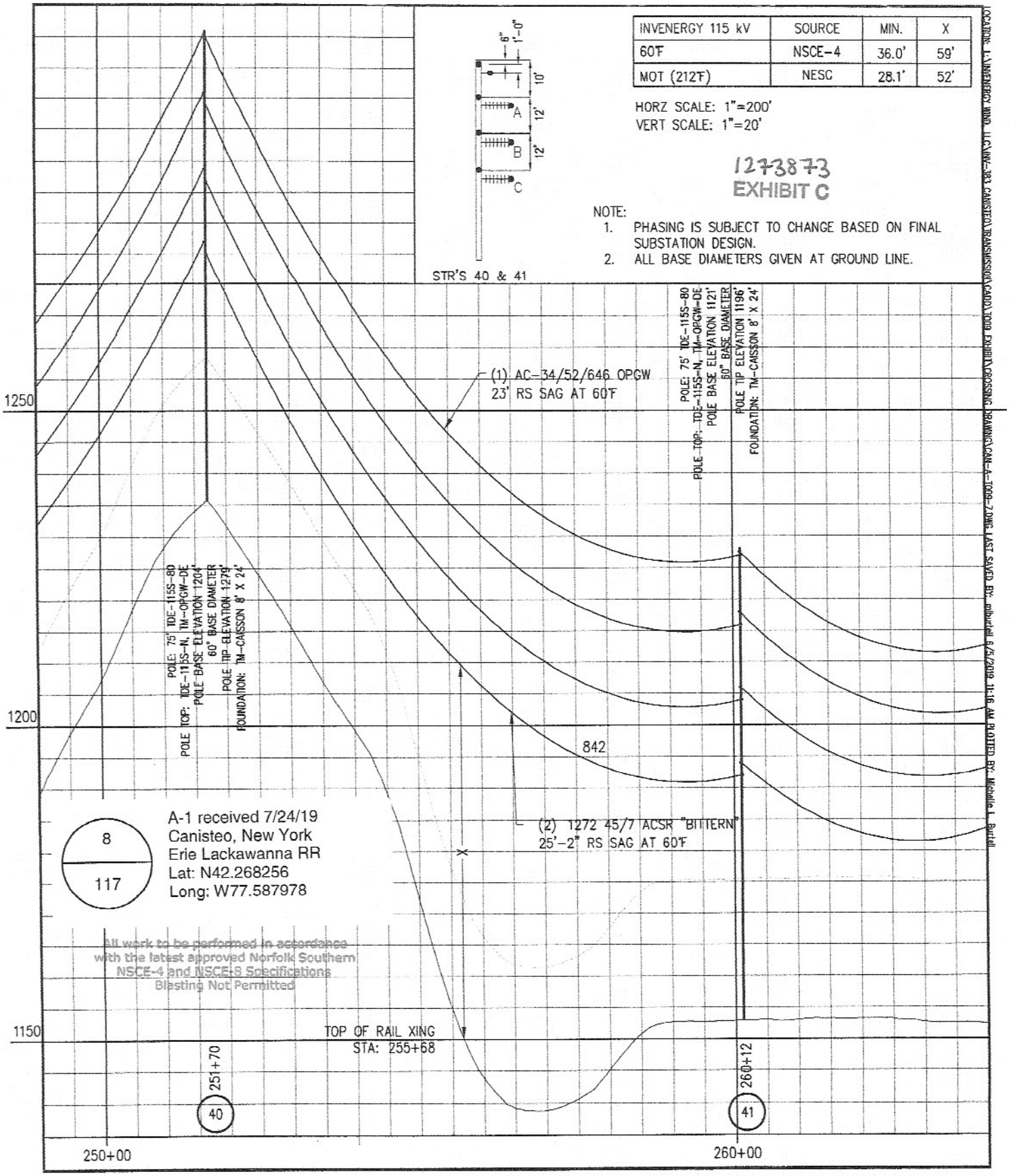
ECI ENGINEERING SERVICES, P.C.

Invenergy

ENGINEERING RECORD		DATE
DRAWN	M. BURTELL	06/03/19
DESIGNED	J. SELENSKY	06/03/19
CHECKED	H. DELL	06/14/19
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

CANISTEO 115 kV TRANSMISSION LINE
RR CROSSING 39-40
PLAN VIEW

DWG. NAME: CAN-A-T009-6A REVISION NO: A



INVENERGY 115 kV	SOURCE	MIN.	X
60°F	NSCE-4	36.0'	59'
MOT (212°F)	NESC	28.1'	52'

HORZ SCALE: 1"=200'
VERT SCALE: 1"=20'

1273873
EXHIBIT C

NOTE:
1. PHASING IS SUBJECT TO CHANGE BASED ON FINAL SUBSTATION DESIGN.
2. ALL BASE DIAMETERS GIVEN AT GROUND LINE.

8
117

A-1 received 7/24/19
Canisteo, New York
Erie Lackawanna RR
Lat: N42.268256
Long: W77.587978

All work to be performed in accordance with the latest approved Norfolk Southern NSCE-4 and NSCE-8 Specifications
Blasting Not Permitted

ECI ENGINEERING SERVICES, P.C.

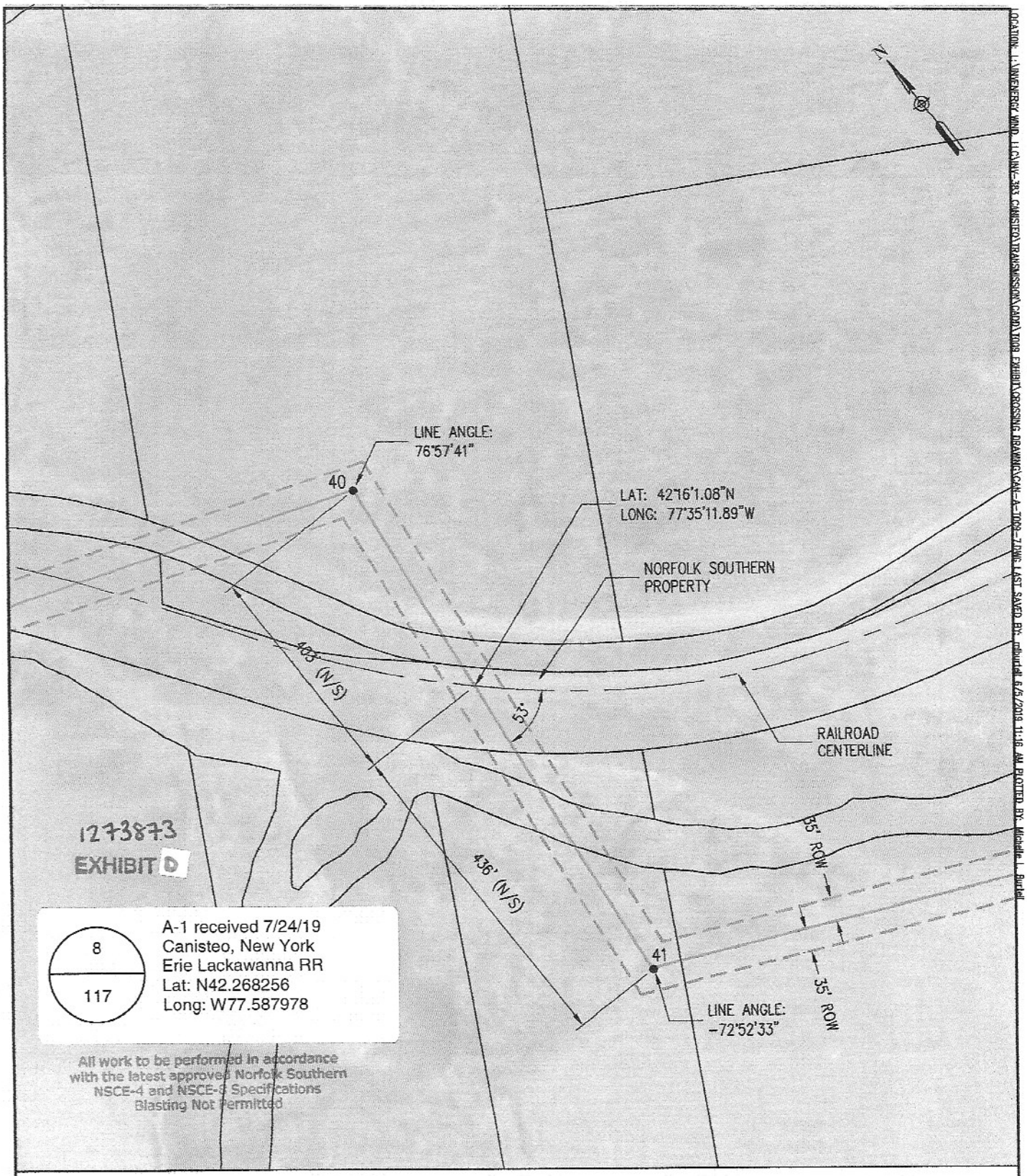
Invenergy

ENGINEERING RECORD		DATE
DRAWN	M. BURTELL	06/03/19
DESIGNED	J. SELENSKY	06/03/19
CHECKED	H. DELL	06/14/19
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

CANISTEO 115 kV TRANSMISSION LINE
RR CROSSING 40-41
PROFILE VIEW

DWG. NAME: CAN-A-T009-7 REVISION NO: A

LOCATION: I:\INVENERGY WIND, LLC\NW-383 CANISTEO\TRANSMISSION\CAD\LT009 EXHIBIT\CROSSING DRAWINGS\CAN-A-T009-7.DWG LAST SAVED BY: mburtell 6/5/2019 11:16 AM PLOTTED BY: Michelle L. Burtell



NOTES:
1. NORFORK SOUTHERN TRANSMISSION, SIGNAL, CATENARY, AND THE THIRD RAIL FACILITIES ARE NOT PRESENT.
2. FULL ROW WIDTH TO BE CLEARED OF VEGETATION.

SCALE: 1"=200'

ECI ENGINEERING SERVICES, P.C.

Invenergy

ENGINEERING RECORD		DATE
DRAWN	M. BURTELL	06/03/19
DESIGNED	J. SELENSKY	06/03/19
CHECKED	H. DELL	06/14/19
APPROVED		
DWG SCALE: AS NOTED	PLT SCALE: 1:1	

CANISTEO 115 kV TRANSMISSION LINE
RR CROSSING 40-41
PLAN VIEW

DWG. NAME: CAN-A-T009-7A REVISION NO: A

EXHIBIT B

From: Service, USPHL1 NSUtilities <NSUtilities.NSUtilities@aecom.com>
Sent: Tuesday, October 29, 2019 10:34 AM
To: Wells, Marguerite
Subject: [EXTERNAL] Norfolk Southern Activity No. 1273873 - Signed Agreement Received

Application submitted on behalf of: Canisteo Wind Energy LLC

Canisteo, Steuben County, New York
Milepost SR-326.10, Southern Tier Line, Harrisburg Division

Norfolk Southern Activity Number 1273873
Proposed work consisting of two (2) aerial crossings of 115kv electric power circuit

AECOM has received the executed agreement for this Activity. The agreement will be forwarded to Norfolk Southern's Real Estate Manager for Railway signature, applicable insurance submissions will be submitted to Norfolk Southern's Risk Manager for review, and checks will be processed as appropriate. Typically this process requires 14 calendar days to complete (3 business days for expedited applications).

Once the agreement has been fully executed, payment of fees verified, and insurance reviewed and accepted by the Norfolk Southern Risk Manager, one original fully executed agreement and instructions for coordinating construction will be sent by U.S. Mail (or overnight FedEx for expedited applications) to the following:

Marguerite Wells
Manager, Renewable Development
Invenergy, LLC
123 South Cayuga Street
Suite 201
Ithaca, NY 14850

If it is necessary to send this package to someone else, please immediately reply to this e-mail with the correct address.

If any required items specified in the agreement package are missing from the returned package, an AECOM Contract Administrator will contact you shortly.

Thank you for your cooperation in this matter. Please reply to this e-mail with any questions.

EXHIBIT C

NSCE-4
4/23/2021

SPECIFICATIONS

FOR

WIRELINE OCCUPANCY

OF

NORFOLK SOUTHERN CORPORATION

PROPERTY

INDEX

Page

APPENDIX

Specifications for Wireline Occupancy of Norfolk Southern Property

1.0 GENERAL

1.1 Scope

A. This specification shall apply to the design and construction of wirelines carrying power or communication cables over, under, across and along NS property and facilities. This specification shall also apply to tracks owned by others (sidings, industry tracks, etc.) over which NS operates its equipment.

B. It is to be clearly understood that NS owns its property for the primary purpose of operating a railroad. All occupancies shall therefore be designed and constructed so that rail operations and facilities are not interfered with, interrupted or endangered. In addition, the proposed facility shall be located to minimize encumbrance to the property so that the railroad will have unrestricted use of its property for current and future operations.

1.2 Definitions

A. NS	-	Norfolk Southern Corporation
B. Applicant (Owner)	-	Individual, corporation or municipality desiring occupancy of NS property
C. Professional Engineer	-	Engineer licensed in the state where the facilities are to be constructed
D. Conduit	-	Pipe, 6-inches in diameter or less, used to transport a wireline
E. Sidings or industry tracks	-	Tracks located off NS's property, serving an industry

1.3 Application for Occupancy

A. Individuals, corporations or municipalities desiring occupancy of NS property by wireline occupations must agree, upon approval of the engineering and construction details by NS, to execute an appropriate NS occupational license agreement, pay any required fees and/or rentals outlined in the agreement, and meet all NS insurance requirements.

B. The application process and guidelines for a wireline crossing occupancy can be found at www.nscorp.com, then follow links for Real Estate > NS Services > Wire, Pipeline, and Fiber Optics Projects.

C. All applications shall be submitted through the web based application portal at https://ns.railprospermitting.com and require a pdf copy of all design and construction plans and a copy of all specifications and engineering computations for the proposed occupancy. On extensive projects, only those plans involving work on, or affecting NS property and operations, shall be submitted. Included shall be a plan showing the extent of the total project upon which that portion of the work affecting NS is clearly defined.

1.4 Right of Entry

A. No entry upon NS property for the purpose of conducting surveys, field inspections, obtaining soils information or any other purposes associated with the design and construction for the proposed

occupancy will be permitted without a proper entry permit. The applicant must pay the associated fees and execute the entry permit.

B. It is to be clearly understood that the issuance of an entry permit does not constitute authority to proceed with any construction. Construction cannot begin until a formal agreement is executed by NS and the applicant receives permission to proceed with the work from the designated construction monitoring agency of NS.

C. The application for a Right of Entry permit shall be obtained at www.nscorp.com then follow links for Real Estate > NS Services > Access NS Property.

1.5 Site Inspection

A. Site inspection is required for all new installations, construction activities, removal and/or modifications to existing facilities.

B. For longitudinal occupancy of NS property, a site inspection along the proposed wireline route may be required before final design plans are prepared. When a site inspection is required, the applicant and/or his engineer must meet with representatives of NS to view the entire length of the proposed occupancy.

C. Prior to the site inspection the applicant must submit the following information through the application portal:

(1) A plan view of the proposed route showing all tracks, both NS property lines and all other facilities located on the property. The distance from the proposed wireline to the adjacent track and to the property lines must be shown.

(2) Typical cross sections along the proposed route. (See Plate IX)

D. See Section 2.0 for further details.

1.6 Information Required for Submission

A. Plans for proposed wireline occupancies shall be submitted to and approved by NS or its representative prior to issuance of an agreement and start of construction.

B. Plans shall be drawn to scale, dimensioned with US Customary Units, and shall include the following (See Plates I to IX):

(1) Plan view of proposed wireline in relation to all NS facilities and facilities immediately adjacent to NS including, but not limited to, tracks, buildings, signals, pole lines, other utilities and all other facilities that may affect or influence the wireline design and construction.

(2) The geographical coordinates (latitude and longitude) of the wire crossing including the distance, in feet, to the nearest highway grade crossing of the railroad and the DOT number posted at the highway grade crossing, if available.

(3) Profile of ground on centerline of pole or tower line showing clearances between top of high rail and bottom of sag accounted for wire type and thermal variation, as well as clearances from bottom wire or cable to top wire or cable of NS's transmission, signal and communication lines, catenary, and third rail when present. If NS facilities listed above do not exist at the point of crossing, the plan should so state. Actual vertical clearance shall be shown. (See Section 2.1 and Plate XIV for the required overhead clearance.)

(4) All NS property lines indicated by dimensions, in feet, to the centerline of adjacent track, as well as the overall width of the NS property. If the wireline is in a public highway, the limits of the dedicated highway property, as well as the limits of any paving, sidewalks etc., shall be defined, by dimensions in feet, from the centerline of the dedicated property.

(5) The angle of the crossing in relation to the centerline of the tracks(s).

C. The plan must be specific, as to:

(1) Base diameter, height, class and bury of poles.

(2) Number of, size, and material of all wires, as well as number of pairs/strands in communication cables.

(3) Nominal voltage of line and phase of circuit.

(4) Location, number of, size of, material or anchors and all guying for poles and arms.

(5) Conduit length across property lines.

(6) Areas of impact and/or vegetation removal.

D. Once the application has been approved, no variance from the plans, specifications, method of installation, and construction, etc., as approved in the occupancy document, will be considered or permitted without the payment to NS or its representative of additional fees for the re-processing of the application.

E. Under special conditions, NS will give consideration to occupations on its bridge superstructures, substructures, pole line, and other subject to the approval of the VP-Engineering or designated representative, and NS policy governing such matters.

F. At NS's request, all plans and computations associated with the work under the agreement shall be prepared by, and bear the seal of, a Professional Engineer and Professional Land Surveyor.

G. Project specifications, for all work on and affecting the NS property, shall be included with the submission. All pertinent requirements of this document shall be included.

1.7 Notification to Proceed with Construction

A. After approval of the engineering plans, specifications, and execution of the occupational agreement, the applicant will be notified of the appropriate NS representative that must be contacted prior to start of construction. The NS representative will coordinate all other construction aspects of the project that relate to NS including but not limited to construction monitoring, flagging, track work, and protection of signal cables.

2.0 CONSTRUCTION REQUIREMENTS

2.1 Aerial Wirelines

A. Overhead power and communication lines shall be constructed in accordance with the National Electrical Safety code (current edition), Part 2, "Safety Rules for the Installation and Maintenance of Overhead Electric Supply and Communication Lines", except as outlined further in this section.

B. Poles including guy cable, subs, or anchors shall be located as close to NS property line as possible and in no instance closer than 28-feet from face of pole to centerline of nearest track.

C. Double cross-arms are required on poles adjacent to track. Any tower or steel pole foundation design must be accompanied by engineering computations and data stamped by a registered Professional Engineer of the state in which the project is located.

D. Any tower or steel pole to be installed on NS property must meet or exceed the industry standards regarding design and usage.

E. Vertical clearance from the top of rail to the bottom of sag of aerial wire crossing, measured at 60-degrees Fahrenheit, shall be as follows:

Guy wires, messenger cables, and telecommunication cables	Electric supply lines and neutral wires (voltage is measured phase-to-ground) *		
27-feet	Less than 750-V	750-V to 15-KV	15-KV to 50-KV
	30-feet	31-feet	33-feet

* For electric supply lines or neutral wires carrying greater than 50-KV, use a vertical clearance of 33-feet plus ½-inch per 1-KV above 50-KV.

F. Vertical clearance between proposed aerial wire crossings and aerial Norfolk Southern communications lines shall be as follows:

Guy wires, messenger cables, and telecommunication cables	Electric supply lines and neutral wires (voltage is measured phase-to-ground) *		
2-feet	Less than 750-V	750-V to 15-KV	15-KV to 50-KV
	2-feet	4-feet	6-feet

* For electric supply lines or neutral wires carrying greater than 50-KV, use a vertical clearance of 33-feet plus ½-inch per 1-KV above 50-KV.

G. Overhead power and communication lines shall be constructed in accordance with the Signal Clearance Diagrams as seen in Plate XII and XIII.

2.2 Underground Wirelines

A. Underground installations carrying power or communication wires and cables shall be constructed and properly marked with signs, in accordance with American Railway Engineering Maintenance-of-Way Association (current edition), Chapter 1, Part 5, except as outlined further in this section.

B. Conduits shall be located, where practicable, to cross tracks at approximate right angles to the track, but preferably at not less than 45-degrees.

C. Conduits shall not be placed within a culvert, under railroad bridges, nor closer than 50-feet to any portion of any railroad bridge, building, or other important structure, except in special cases, and then by special design, as approved by NS or its authorized representative.

D. Conduits shall not be located within 50 feet of the limits of a turnout (switch) when crossing the track. The limits of the turnout extend from the point of the switch to the last long timber.

E. Conduit shall not be located within 50 feet of a control point area. The limits of the control point area are governed by the signal system regulating the control point.

F. Plastic conduit material includes thermoplastic and thermoset plastic conduits, such as PVC and HDPE.

G. Conduits shall maintain a minimum horizontal clearance of 4-feet, or if within 4-feet, a minimum vertical clearance of 10-feet from the base of any railroad signal apparatus.

H. Minimum Depth of Installation:

Material	Bore & Jack	HDD-A	HDD-B
Steel	5.5-feet	10-feet	5.5-feet
Plastic	15-feet*		
Parallel Occupancy	4-feet		

* Within 25-feet of centerline of the closest track and a minimum depth of 10-feet anywhere else on NS property.

I. Conduits under railroad tracks and across NS's property shall extend the greater of the following distances, measured at right angle to centerline of track:

(1) Across the entire width of the NS property

(2) 3-feet beyond ditch line

(3) 2-feet beyond toe of slope

(4) Beyond theoretical railroad embankment line. This line begins at a point, on existing grade, 14-feet horizontally from centerline track and extends downward on a 2 (H) to 1 (V) slope. (See Plate VII) The 14-foot is measured from 19-inches below the base of the rail.

2.3 General track and ground monitoring requirements

(1) General requirement

a. Temporary lighting may also be required by the NS to identify tripping hazards to train crewmen and other NS personnel.

b. Any excavation, holes or trenches on the NS property shall be covered, guarded and/or protected. Handrails, fence, or other barrier methods must meet OSHA and FRA requirements.

(2) Track and ground monitoring are required as follows:

a. For crossings with pipe diameter and depth (below base of rail) as shown below in

b. For shoring within Zone 1 of any track, as shown below in PLATE VIII.

c. Additional monitoring may be required by the NS on a case by case basis.

(3) Monitoring schedule

a. Monitoring shall commence once any construction activity is within Zone 1. See PLATE VIII.

b. Monitoring shall continue through completion of installation and may be required after completion for a period of time determined by NS or its representative.

Final Bore Hole, inches

Depth, feet (below base of rail)	1-5	6-12	12-24	24 - 42	42 - 54	54 - 60	>60
5	X	X	X	X	X	X	X
10	X	X	X	X	X	X	X
15		X	X	X	X	X	X
20			X	X	X	X	X
25				X	X	X	X
30					X	X	X
>30						X	X

X = Track Monitoring is required

B. Track Monitoring

(1) Track Deflection Limits

(2) Targets

a. Track monitoring shall not require track access other than to place the track monitoring targets.

b. Monitoring targets should be placed such that monitoring is possible when a train is present. However, monitoring during the passing of a train is not required as the train will temporarily deflect the track.

c. Adhesive backed reflective targets may be attached to the side of the rail temporarily. Targets should be removed once monitoring phase is complete.

(3) Monitoring Plan

(4) If the top of rail does deflect more than values listed below, all operations shall stop until the matter is resolved.

a. Track monitoring values for Class 3 through Class 4:

1. Threshold value = 1/8 inch permanent vertical or horizontal deflection

2. Installation Shutdown value = 1/4 inch permanent vertical or horizontal deflection

b. Track monitoring values for Class 1 through Class 2:

1. Threshold value = 1/4 inch permanent vertical or horizontal deflection

2. Installation Shutdown value = 1/2 inch permanent vertical or horizontal deflection

c. Provide established contingency plan, see Section D, in the event of ground loss and/or the rail deviates ¼ inch vertical or horizontal.

d. Establish a benchmark in the vicinity of the construction. Establish locations for shooting elevations on the top of rail at each area of construction.

1. Example locations for shooting rail elevations would be at:

- At the centerline of an under track crossing.
- At both outside edges of the crossing i.e. for a wide excavation.
- At multiple locations from the crossing/excavation edge but no less than 10, 20, 30, 40 and 50 feet from the crossing.

e. Monitoring shall be continuous and recorded in a field logbook dedicated for this purpose. Copies of these field log entries can be made available to all concerned parties upon request at any time during construction.

C. Ground Monitoring

(1) Provide means for monitoring ground settlement. Submit monitoring plan for NS review.

(2) Ground monitoring points should be in alignment above the proposed construction activities.

D. Contingency Plans

(1) The Contractor shall supply Contingency Plan(s), which anticipate reaching the Threshold and Installation Shutdown values, for all construction activities which may result in horizontal and/or vertical track deflection.

a. Track monitoring values for Class 3 through Class 4:

1. Threshold value = 1/8 inch permanent vertical or horizontal deflection
2. Installation Shutdown value = 1/4 inch permanent vertical or horizontal deflection

b. Track monitoring values for Class 1 through Class 2:

1. Threshold value = 1/4 inch permanent vertical or horizontal deflection
2. Installation Shutdown value = 1/2 inch permanent vertical or horizontal deflection

(2) The Contingency Plans shall provide means and methods, with options if necessary.

(3) The Contractor should anticipate the need to implement each Contingency Plan with required materials, equipment and personnel.

a. Once the Threshold value is met, the contractor shall determine the appropriate Contingency Plan(s) and immediately discuss this plan with, and receive approval confirmation from, the NS.

b. Once the Installation Shutdown value is exceeded all project work shall stop and the chosen Contingency Plan shall commence.

1. The NS may choose to allow and/or require the immediate implementation of specific approved Contingency Plans, submitted by the contractor, once the Installation Shutdown value is exceeded.

2.4 Method of Installation for Underground Wirelines:

A. Bored, jacked or tunneled installations shall have a bore hole essentially the same as the outside diameter of the conduit plus the thickness of the protective coating.

B. The use of water or other liquids to facilitate conduit emplacement and spoil removal is prohibited, except as outlined in Section F.

C. If during installation an obstruction is encountered which prevents installation of the conduit in accordance with this specification, the conduit shall be abandoned in place and immediately filled with grout. A new installation procedure and revised plans must be submitted to, and approved by, NS or its representative before work can resume.

D. The project specifications must require the contractor to submit, to NS or its representative for approval, a complete construction procedure of the proposed operations. Included with the submission shall be the manufacture's catalog information describing the type of equipment to be used.

E. Bore and Jack (Steel Pipe)

This method consists of pushing the pipe into the earth with a boring auger rotating within the pipe to remove the spoil.

(1) The boring operation shall be progressed on a 24-hour basis without stoppage in Zone 1, 2, and 3 as indicated in Plate VIII of NSCE-8 "Specification for Pipeline Occupancy of Norfolk Southern Corporation Property" (except for adding lengths of pipe) until the leading edge of the pipe has reached the receiving pit.

(2) The front of the pipe shall be provided with mechanical arrangements or devices that will positively prevent the auger from leading the pipe so that no unsupported excavation is ahead of the pipe.

(3) The auger and cutting head arrangement shall be removable from within the pipe in the event an obstruction is encountered. If the obstruction cannot be removed without excavation in advance of the pipe, procedures as outlined in Section 2.3.C must be implemented immediately.

(4) The over-cut by the cutting head shall not exceed the outside diameter of the pipe by more than½-inch. If voids should develop or if the bored hole diameter is greater than the outside diameter of the pipe (plus coating) by more than approximately 1-inch, grouting or other methods approved by NS or its representative, shall be employed to fill such voids.

(5) The face of the cutting head shall be arranged to provide a reasonable obstruction to the free flow of soft or poor material.

(6) Any method that employs simultaneous boring and jacking for conduits over 8-inches in diameter that does not have the above approved arrangement will not be permitted. For pipe 8-inches and less in diameter, auguring or boring without this arrangement may be considered for use only as approved by NS or its representative.

F. Directional Boring / Horizontal Directional Drilling Method "A"

This method consists of setting up specialized drilling equipment on existing grade (launching and receiving pits are not required) and boring a small diameter pilot hole on the desired vertical and horizontal alignment, using a mechanical cutting head with a high pressure fluid (bentonite slurry) to remove the cuttings. The drill string is advanced with bentonite slurry pumped through the drill string to the cutting head and then forced back along the outside of the drill string, carrying the cuttings back to the surface for removal. When the cutting head reaches the far side of the crossing, it is removed and a reamer (with a diameter greater than the cutting head) is attached to the lead end of the drill string. The conduit is attached to the reamer and the pilot hole is then back reamed while the conduit is pulled into place.

(1) For steel conduits, the depth of cover must be greater than 10-feet below the base of the rail, or the bore is in rock.

(2) For plastic conduits, the depth of cover must be greater than 15-feet below the base of the rail, or the bore is in rock.

(3) Factors considered will be track usage, pipe size, contents of pipeline, soil conditions, etc.

(4) For conduits that are over 6 inches, steel conduit casing must be use and maximum size of any conduit shall be limited to 8 inches.

(5) Multiple innerducts must be in a casing 6" or less in diameter. For casing over 6 inches refer to Section 2.4 F (4). Provide a detail or cross section of the casing pipe with innerducts. Please see detail on the Conduit Data Sheet, Plate I. Clearly mark the type of facility that will be installed with each innerduct. If innerduct will be left spare or empty, please identify as such.

G. Directional Boring / Horizontal Directional Drilling Method "B"

This method consists of using hydraulic jacking equipment to push a solid steel rod under the railroad from a launching pit to a receiving pit. At the receiving pit, a cone shaped "expander" is attached to the end of the rod and the conduit (casing pipe) is attached to the expander. The rod, expander and conduit are then pulled back from the launching pit until the full length of the conduit is in place.

(1) This method may be used to place conduit (casing pipe), up to and including 6-inches in diameter, under the railroad.

(2) For steel conduits, the depth of cover must be greater than 5.5-feet below the base of the rail, or the bore is in rock.

(3) For plastic conduits, the depth of cover must be greater than 15-feet below the base of the rail, or the bore is in rock.

(4) For conduits that are over 6 inches, steel conduit casing must be use and maximum size of any conduit shall be limited to 8 inches.

(5) Multiple innerducts must be in a casing 6" or less in diameter. For casing over 6 inches refer to Section 2.4 G (4). Provide a detail or cross section of the casing pipe with innerducts. Please see detail on the Conduit Data Sheet, Plate I. Clearly mark the type of facility that will be installed with each innerduct. If innerduct will be left spare or empty, please identify as such.

2.5 Longitudinal Occupations

A. Conduits laid longitudinally on NS property shall be located as far as practicable from any tracks or other important structures and as close to the NS property line as possible. Longitudinal conduits must not be located in earth embankments or within ditches located on the property.

B. Feasibility proposals will be accepted for review. Applicant should furnish a letter requesting study along with a plan view showing the extent of the proposed occupation. This feasibility plan may being the form of a local, county, USGS Map, or drawing, showing the railroad, streets, highways and other information identifying the location of the project.

C. Arrangements will then be made to furnish the applicant with the appropriate NS valuation maps and a right of entry permit. There will be a "nominal charge" for the necessary valuation maps which depict the NS property lines and other facilities. These are the best records we have and may be used for the feasibility proposal. However, NS does not warrant the accuracy of these maps and all pertinent information to the NS occupancy must be verified prior to final submission.

D. Upon receipt of these documents, the applicant must execute the right of entry permit in order to access NS property. Such access would allow for the verification that the proposed pole locations are feasible and do not interfere with any NS facilities. At such a time, the applicant should stake out a few "key" points along with the occupation such as, crossings, alignment, radical changed in alignment, etc.

E. Once this temporary stake out is completed, the applicant must submit to NS via the online application portal, a PDF copy of preliminary plans showing the location of all proposed poles and other information as stated below. Arrangements will then be made for a site investigation by NS personnel. The proposed occupation will be field checked to ensure compliance with and conformance to this specification. At that time, comments, recommendations, changes to, or approval of, all locations will be made.

F. Wires and cables running longitudinally along NS's property shall be constructed as close to property lines as possible. The following information must be submitted in addition to the detail of the pole top configuration as called for on Plate V of these specifications:

(1) Nominal voltage and phase of circuit(s) ornumber of pairs.

(2) Phase of electrical circuit(s).

(3) Number of electrical circuits.

(4) Size (AWG or CM) and material of wires or cables.

(5) Length of spans clearly indicated on drawing.

(6) Any intended future wires or cables.

G. Any facilities overhanging or requiring a clear zone on NS property must have approval of the VP-Engineering or his designated representative; must confirm to the above specifications and are subject to the appropriate rental charges.

H. Project specifications, for all work on and affecting the NS property, shall be included with the submission. All pertinent requirements of this document shall be included.

2.6 Inductive Interference

A. An inductive interference coordination study is required for all proposed longitudinal occupations. This study may also be required for any crossing other than 90-degrees with the track(s).

B. All agreements covering crossings and longitudinal occupations will include provisions that the applicant provide appropriate remedies, at his own expense, to correct any inductive interference with NS facilities.

2.7 Modification of Existing Facilities

A. Any replacement or modification of an existing carrier pipe, conduit, and/or casing shall be considered as anew installation, subject to the requirements of this specification.

2.8 Abandoned Facilities

A. The owner of all abandoned conduit crossings and other occupancies shall notify NS in writing, of the intention to abandon. The owner of conduit crossings and other occupancies shall submit to NS a request to abandon through the application portal and shall include its abandonment plans.

B. Abandoned conduits shall be completely filled with cement grout, compacted sand or other methods as approved by NS. This criterion maybe waived by NS for all, or a portion of the occupancy, at its sole discretion on case by case basis as requested by the applicant.

C. Abandoned handholes and other structures shall be removed to a minimum distance of 3-feet below finished grade and completely filled with cement grout or compacted sand.

2.9 Conflict of Specifications

A. Where laws or orders of public authority prescribe a higher degree of protection than specified herein, then the higher degree so prescribed shall be deemed a part of this specification.

2.10 Marker Signs

A. Conduits shall be prominently marked 15-feet from the centerline of nearest track (except those in streets or access roads, where it would not be practical to do so or would interfere with NS operations) and at property lines at points of entry/exit (on both sides of track for crossings) by durable, weatherproof signs located over the centerline of the conduit. Signs shall show the following:

(1) Name and address of applicant

(2) Contents of conduit

(3) Emergency telephone number

B. For conduits running longitudinally on NS property, signs shall be placed over the conduit (or offset and appropriately marked) at all changes in direction of the conduit. Such signs should also be located so that when standing at one sign the next adjacent marker in either direction is visible. In no event shall they be placed more than 500-feet apart unless otherwise specified by NS.

C. The applicant must maintain all signs on NS property as long as the occupational agreement is in effect.

2.11 Warning Tape

A. All conduits installed by open cut and handholes installed on NS property shall have detectable underground warning tape placed minimum distance of 18 inches below the finished ground surface elevation and located directly above the conduit.

2.12 Handholes and Manholes

A. Handholes and manholes shall not be located on NS property where possible. At locations where this is not practical, including longitudinal occupancies, handholes and manholes on NS property shall have a minimum of 2-feet of cover and be designed to withstand passage of trucks. Handholes and manholes must be locatable from the surface.

B. The distance from centerline of adjacent track to centerline of proposed handhole and manholes shall be shown on the plans.

2.13 Safety Requirements

A. All operations shall be conducted so as not to interfere with, interrupt, or endanger the operation of trains or damage, destroy, or endanger the integrity of railroad facilities. All work on or near NS property shall be conducted in accordance with NS safety rules and regulations. The contractor shall secure and comply with the NS safety rules and shall give written acknowledgement to NS that they have been received, read, and understood by the contractor and its employees. Operations will be subject to NS monitoring at any and all times.

B. All cranes, lifts, or other equipment that will be operated in the vicinity of the railroad's electrification and power transmission facilities shall be electrically grounded as directed by NS.

C. At all times when the work is being progressed, a field supervisor for the work with no less than twelve (12) months experience in the operation of the equipment being used shall be present. If boring equipment or similar machines are being used, the machine operator also shall have no less than twelve (12) months experience in the operation of the equipment being used.

D. Whenever equipment or personnel are working closer than 15-feet from the centerline of an adjacent track, that track shall be considered as being obstructed. Insofar as possible, all operations shall be conducted no less than this distance. Operations closer than 15-feet from the centerline of a track shall be conducted only with the permission of, and as directed by, a duly qualified NS railroad employee or an authorized NS representative present at the site of the work.

E. Construction near switching areas may require lighting.

F. Crossing of tracks at grade by equipment and personnel is prohibited except by prior arrangement with, and as directed by NS.

2.14 Blasting

A. Blasting will not be permitted.

2.15 Support of Excavation Adjacent to Track

A. The location and dimensions of all pits or excavations shall be shown on the plans. The distance from centerline of adjacent track to face of pit or excavation shall be clearly labeled. Also, the elevation of the bottom of the pit or excavation must be shown on the profile.

B. The face of all pits shall be located a minimum of 25-feet from centerline of adjacent track, **measured at right angles to track**, unless otherwise approved by NS.

C. If the bottom of the pit excavation intersects the theoretical railroad embankment line (See Plate VII) interlocking steel sheet piling, driven prior to excavation, must be used to protect the track stability. The uses of trench boxes or similar devices are not acceptable in this area.

(1) Design plans and computations for the pits, stamped by a Professional Engineer, and must be submitted by the applicant at time of application or by the contractor prior to start of construction. If the pit design is to be submitted by the contractor, the project specifications must require the contractor to obtain NS approval prior to beginning any work on or which may affect NS property.

(2) The sheeting shall be designed to support all lateral forces caused by the earth, railroad and other surcharge loads.

(3) After construction and backfilling, all sheet piling within 10-feet of centerline track must be cut off 18-inches below final grade and left in place.

D. All excavated areas are to be illuminated (flashing warning lights not permitted), fenced and otherwise protected as directed by NS.

2.16 Reimbursement of Costs

A. All costs incurred by NS or its representative associated with the wire installation (construction monitoring, flagging, track work, protection of signal cables, etc.) shall be reimbursed by the applicant.

PUBLICATION STANDARDS SOURCES

ANSI	American National Standards Institute, Inc. 1899 L Street, NW, 11th Floor Washington, DC 20036 Tel: 202.293.8020
AREMA	American Railway Engineering Maintenance-of-Way Association 4501 Forbes Blvd., Suite 130 Lanham, MD 20706 Tel: 301.459.3200
ASTM	American Society for Testing and Materials 100 Barr Harbor Drive, PO Box C700 West Conshohocken, PA 19428 Tel: 610.832.9500
NESC	National Electrical Safety Code 445 Hoes Lane Piscataway, NJ 08854- 4141 USA Tel: 732.981.0060

NOTE: If other than ANSI, AREMA, ASTM or NESC specifications are referred to for design, materials or workmanship on the plans and specifications for the work, then copies of the applicable sections of such other specifications referred to shall accompany the plans and specifications for the work.

PLATE I - Conduit Data Sheet

(For Telecom and Power Conduits only, 6” in diameter or less)

	CONDUIT / CASING PIPE
NOMINAL SIZE OF PIPE	
MATERIAL*	
OUTSIDE DIAMETER	
INSIDE DIAMETER	
WALL THICKNESS - **must be at least 0.188”**	
TYPE OF COATING	

*** STEEL conduits required at least 10’ depth below base of rail**
HDPE conduits will be considered at least 15’ depth below base of rail

Proposed Method of Installation (Given sections refer to NSCE-8 Specification)

☐ Jack & Bore (Section 5.1.3)

☐ Directional Boring Method “A” (Section 5.1.6) – *must have at least 10’ depth below base of rail*

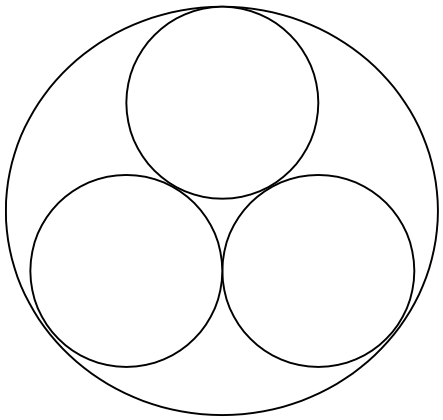
☐ Directional Boring Method “B” (Section 5.1.6) – *only for casings 6 inches or less in diameter*

☐ Open Cut (Section 5.1.2) – *All installations directly under any track must be designed as a bored installation. Open cut installations will be considered on a case-by-case basis by Norfolk Southern’s Division Superintendent at the time of installation.*

☐ Other – Please Specify: _____

MULTIPLE INNERDUCTS
NUMBER OF INNERDUCTS WITHIN CASING PIPE: _____

- Provide a detail or cross section of the casing pipe with innerducts (see below).
- Clearly mark the type of facility that will be installed within each innerduct. If innerduct will be left spare or empty, please identify as such.



RAILPROS

NORFOLK SOUTHERN

Plate II - Sample Aerial Wire Plan View

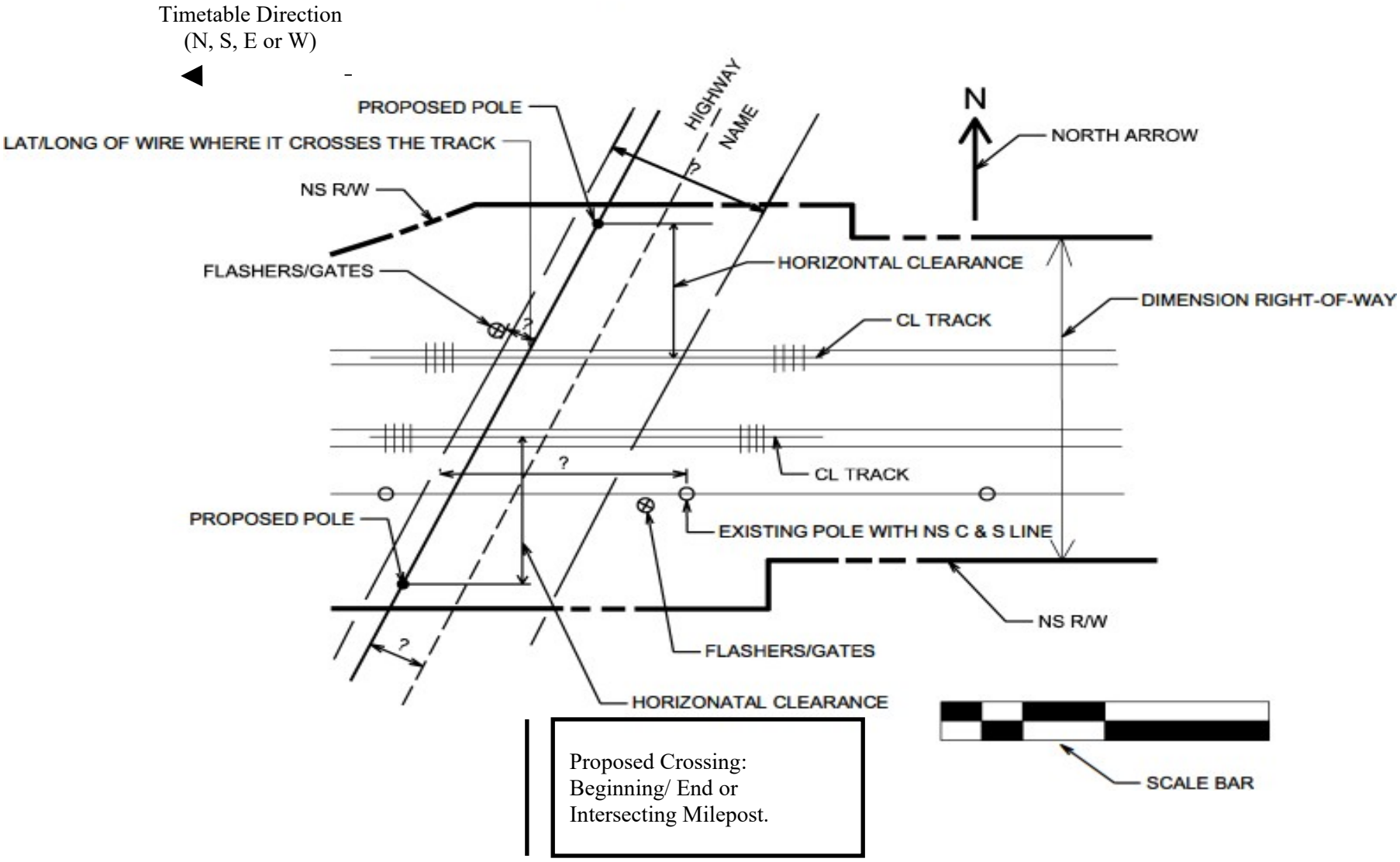
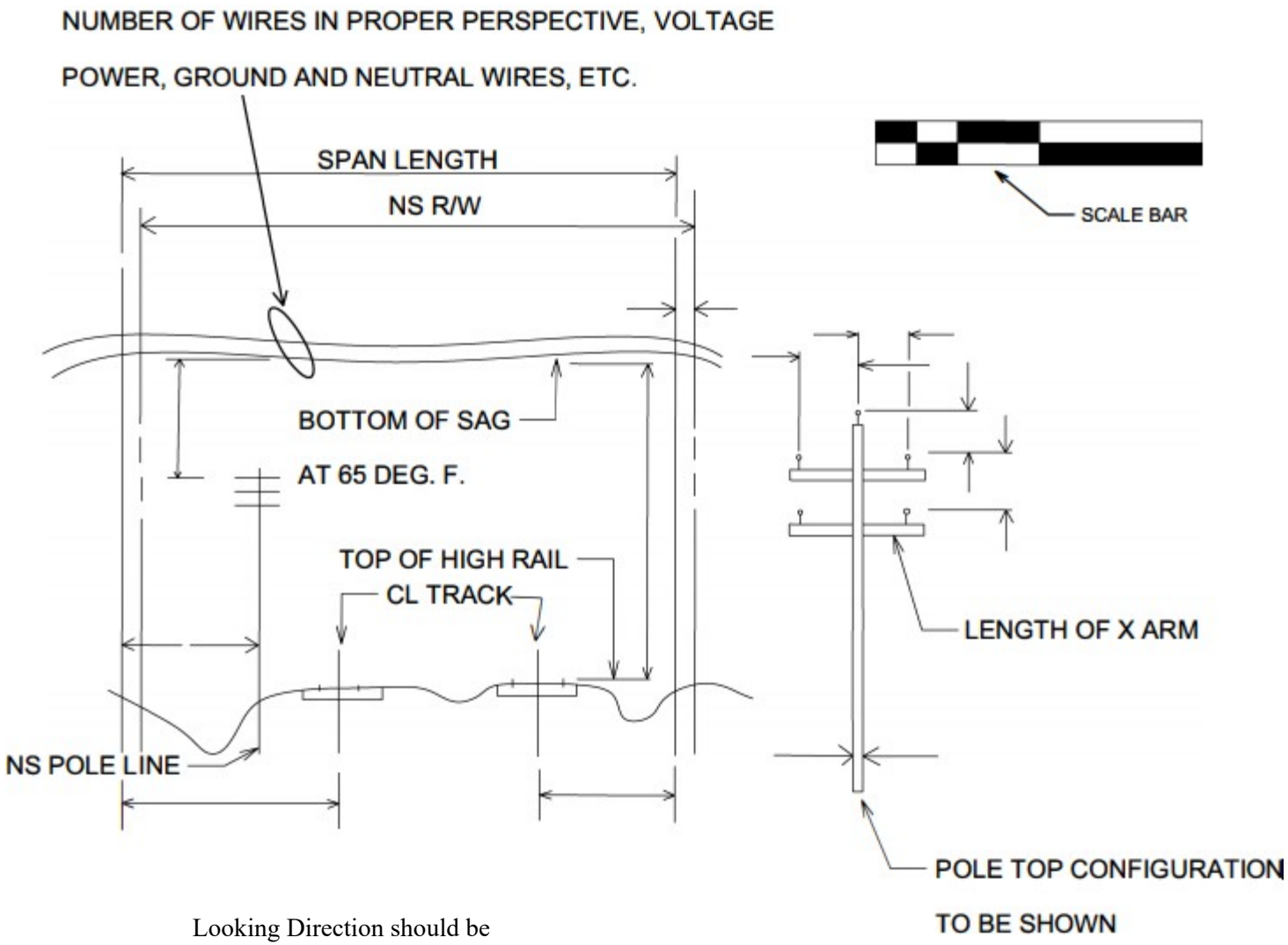


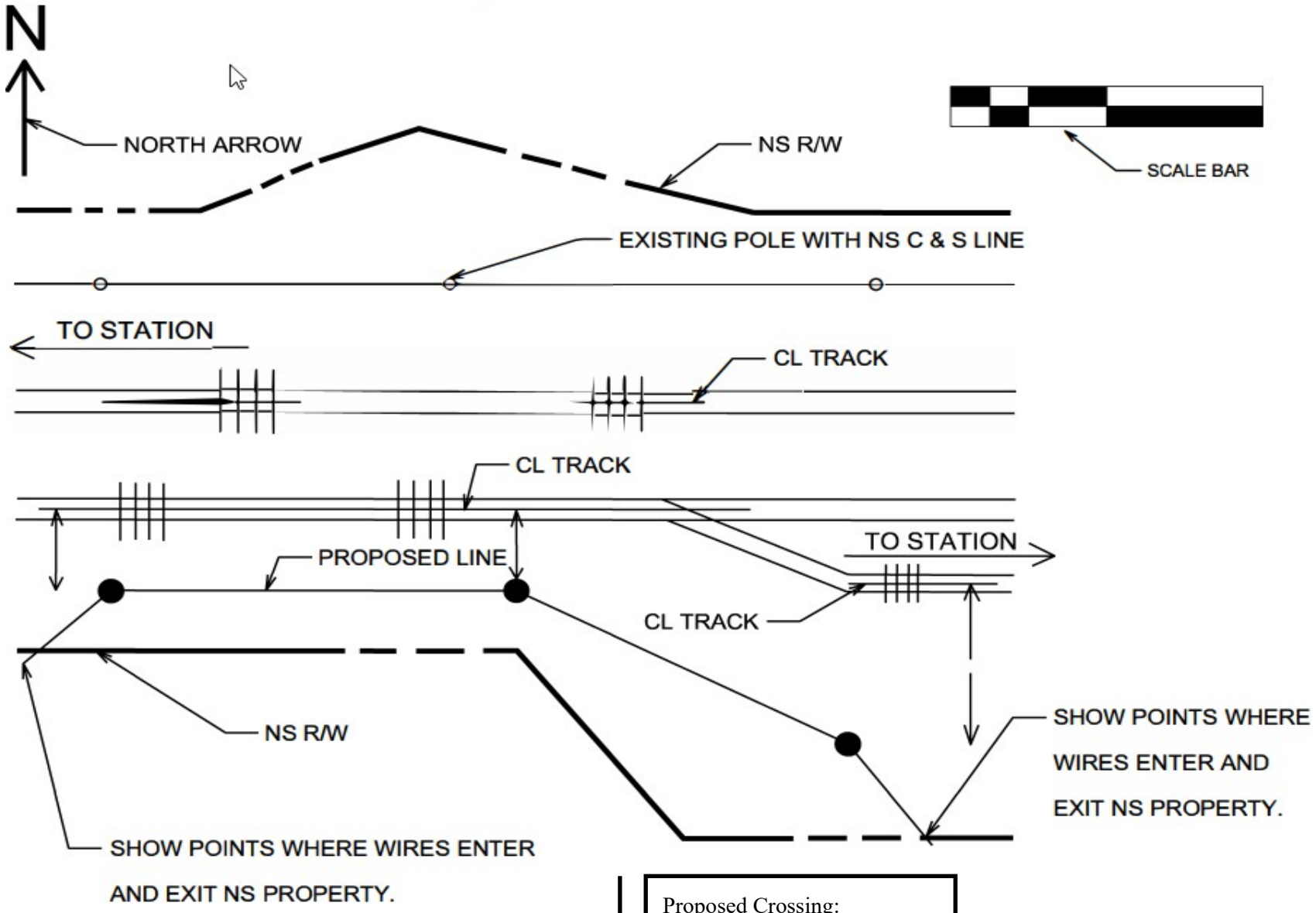
Plate III - Sample Aerial Wire Profile View



Looking Direction should be
Increasing and Decreasing Milepost

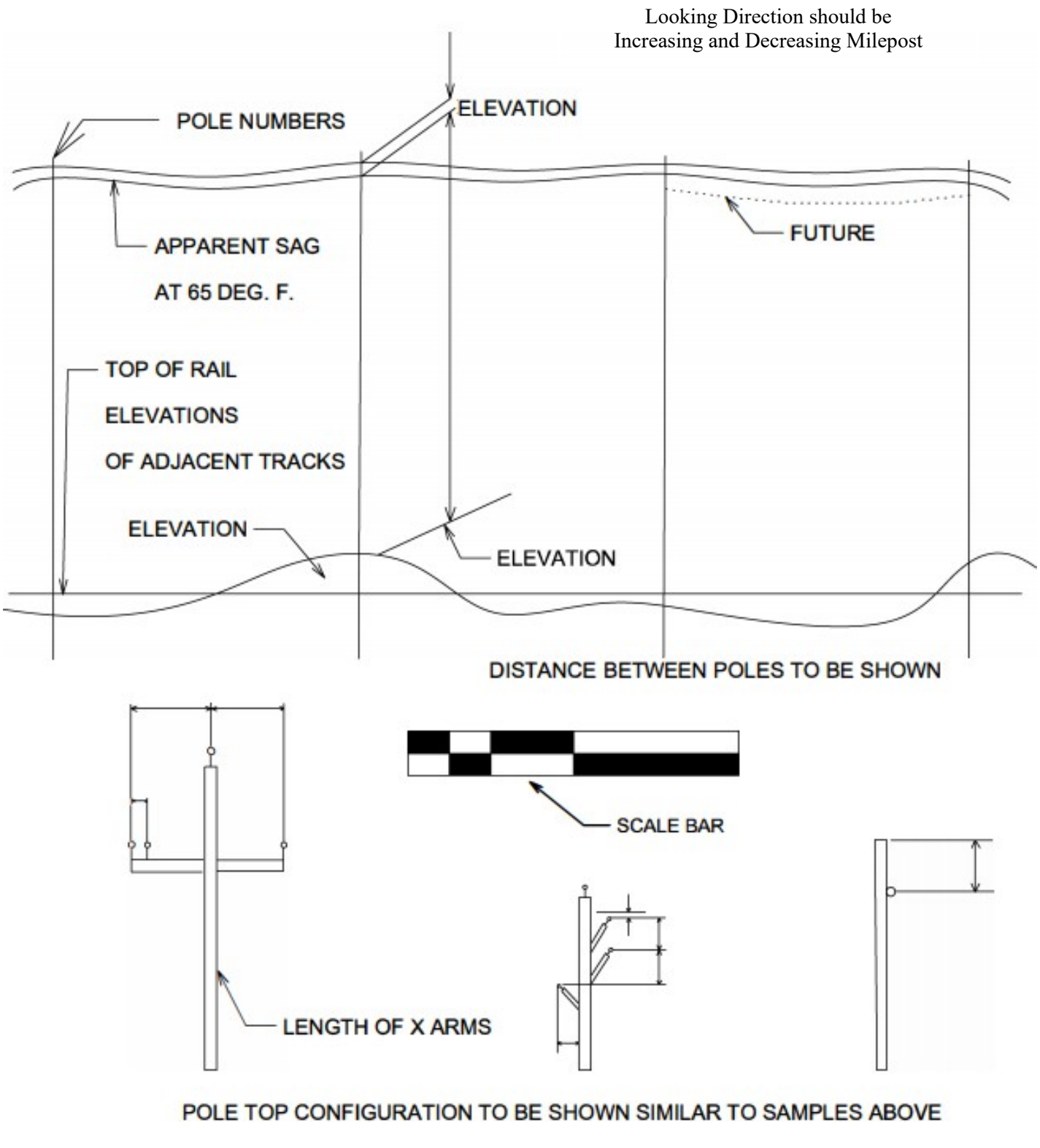
Timetable Direction
(N, S, E or W)

Plate IV - Sample Aerial Wire Parallel Plan View



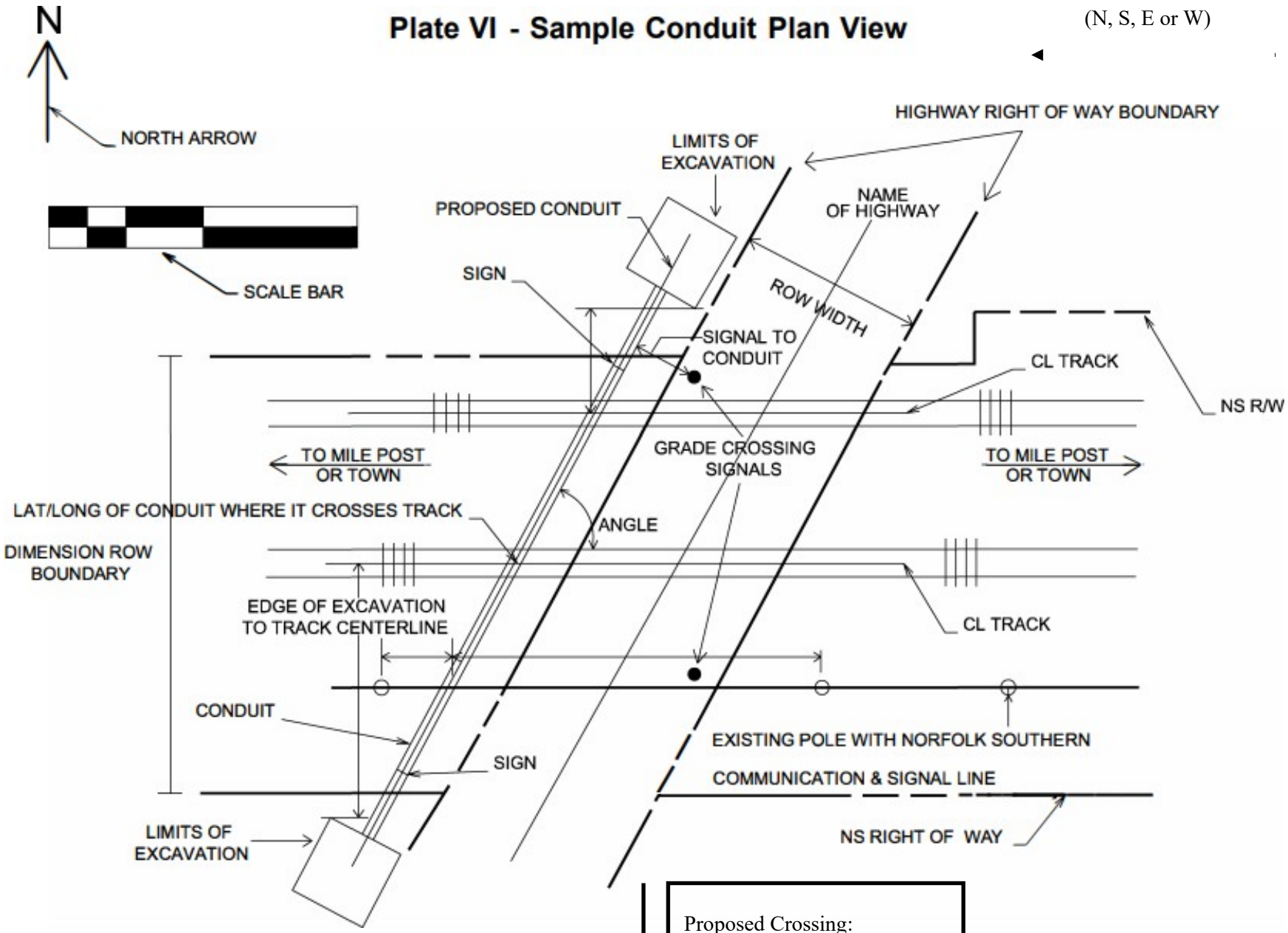
Proposed Crossing:
Beginning/ End or
Intersecting Milepost within
NS Property.

Plate V - Sample Aerial Wire Parallel Profile and Section Views



Timetable Direction
(N, S, E or W)

Plate VI - Sample Conduit Plan View



Proposed Crossing:
Beginning/ End or
Intersecting Milepost.

Plate VII - Sample Conduit Profile View

Looking Direction should be
Increasing and Decreasing Milepost

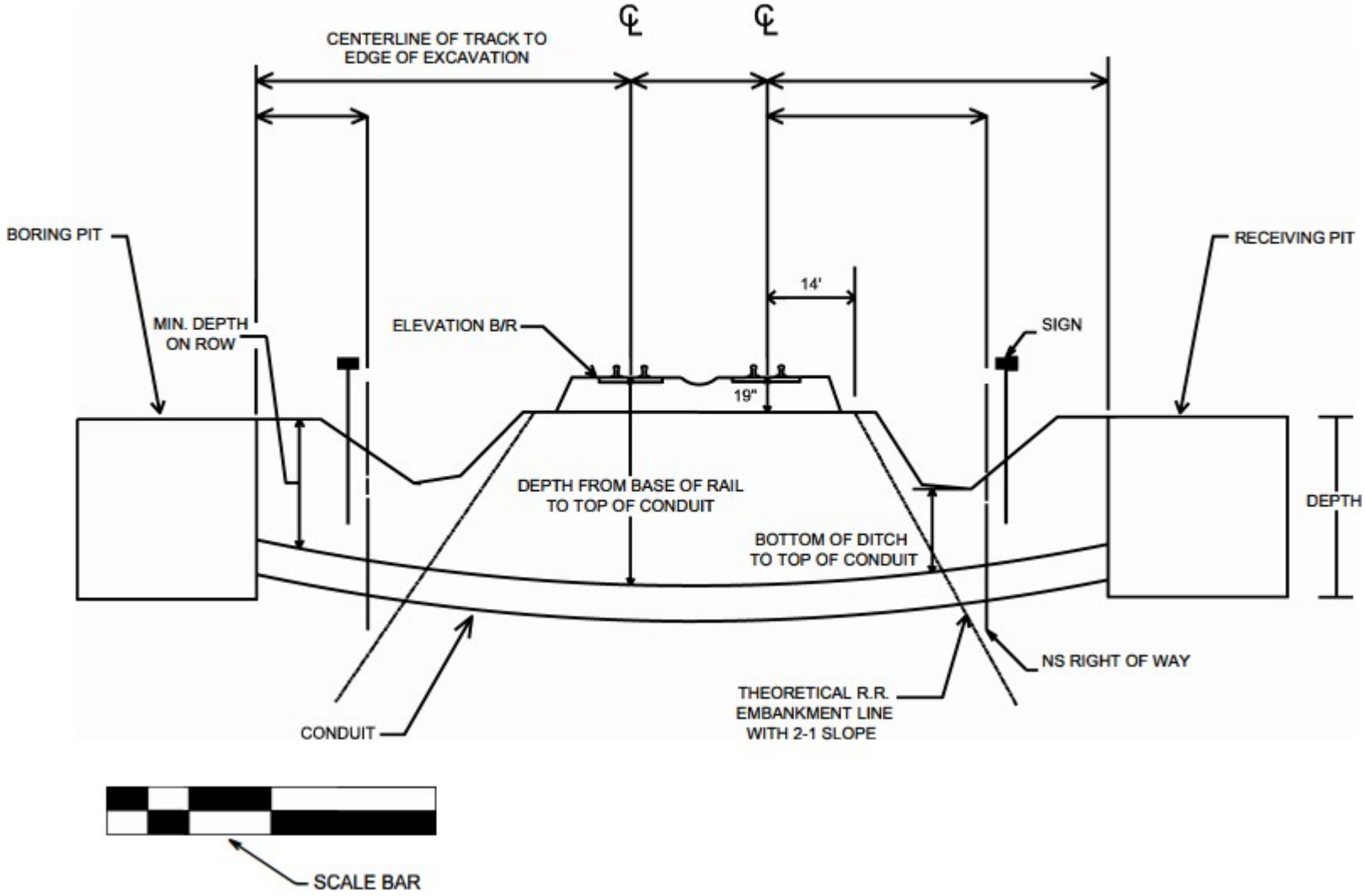
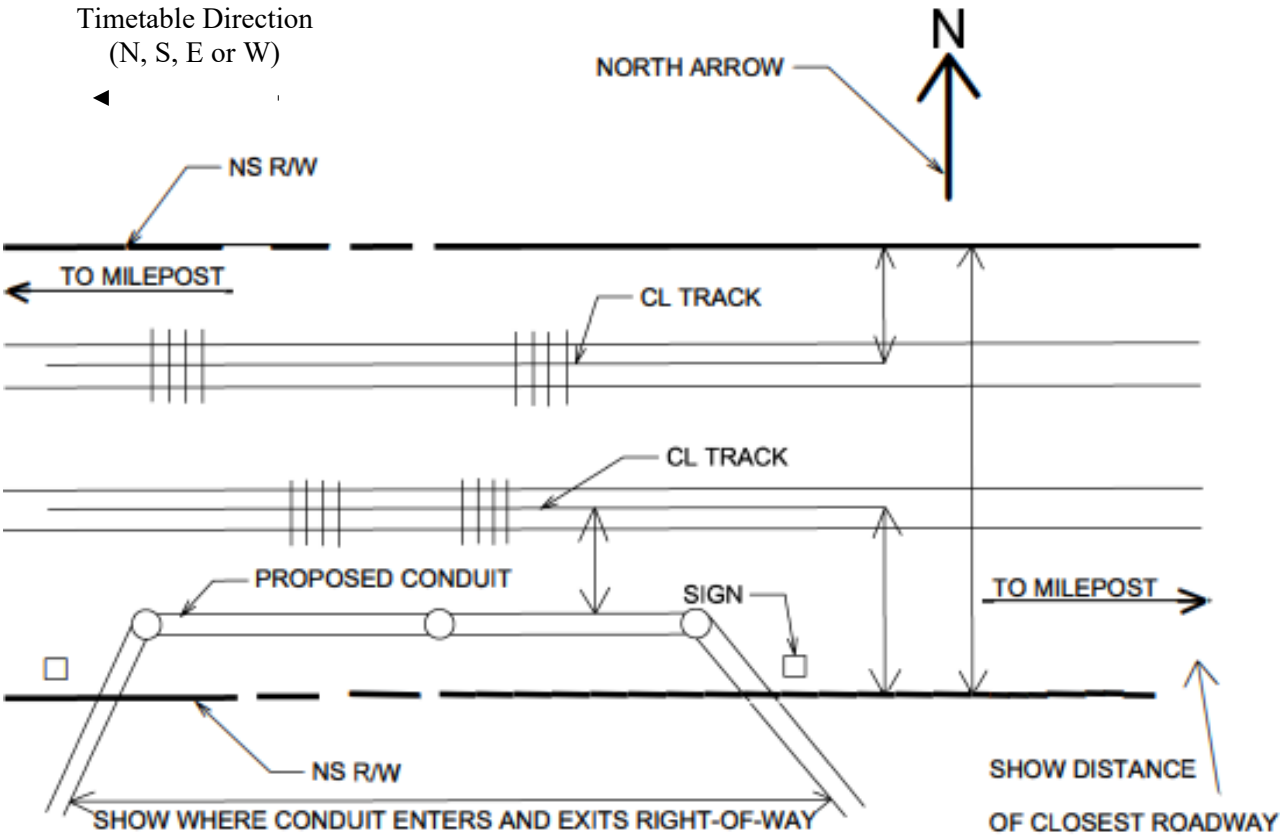
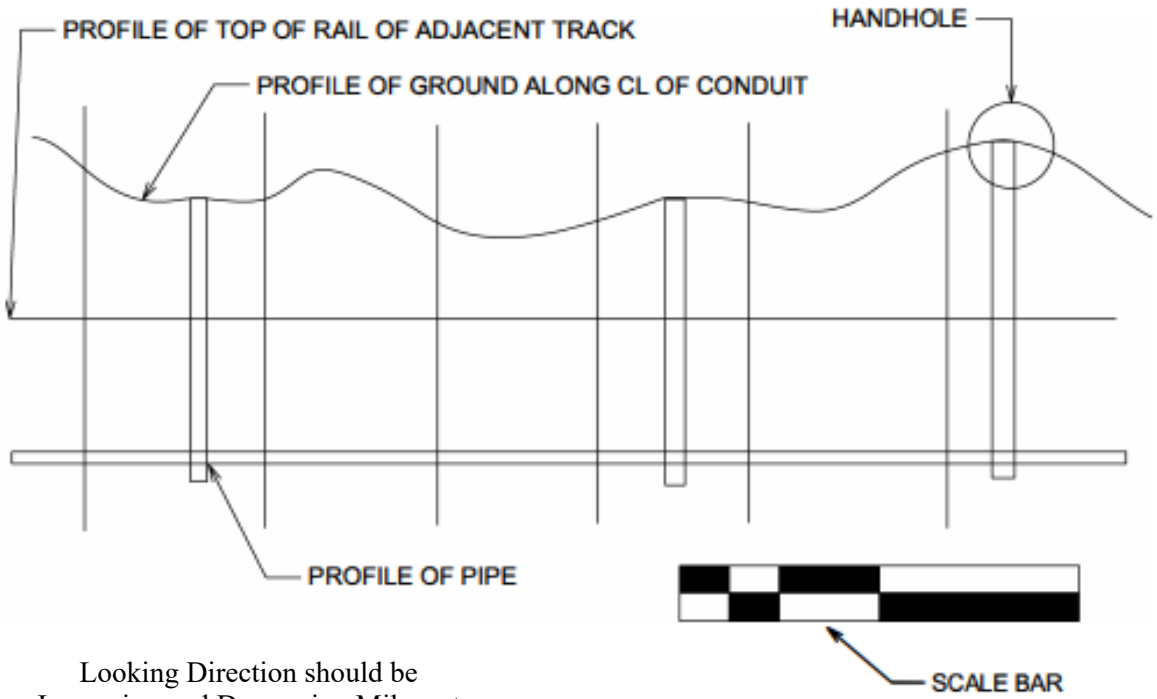


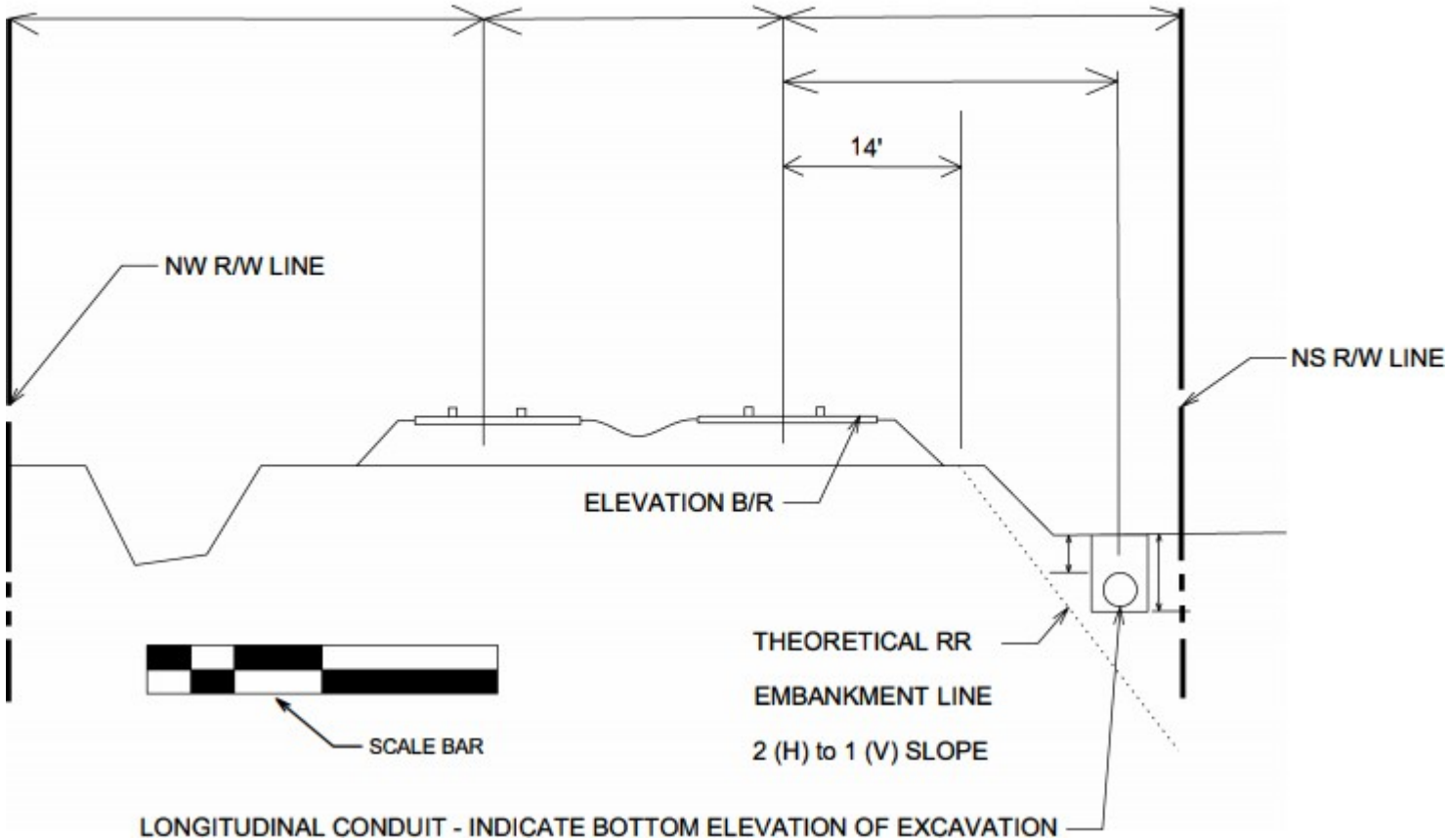
Plate VIII - Sample Conduit Parallel Plan and Profile Views





Looking Direction should be
Increasing and Decreasing Milepost

Plate IX - Sample Conduit Parallel Section View



Looking Direction should be
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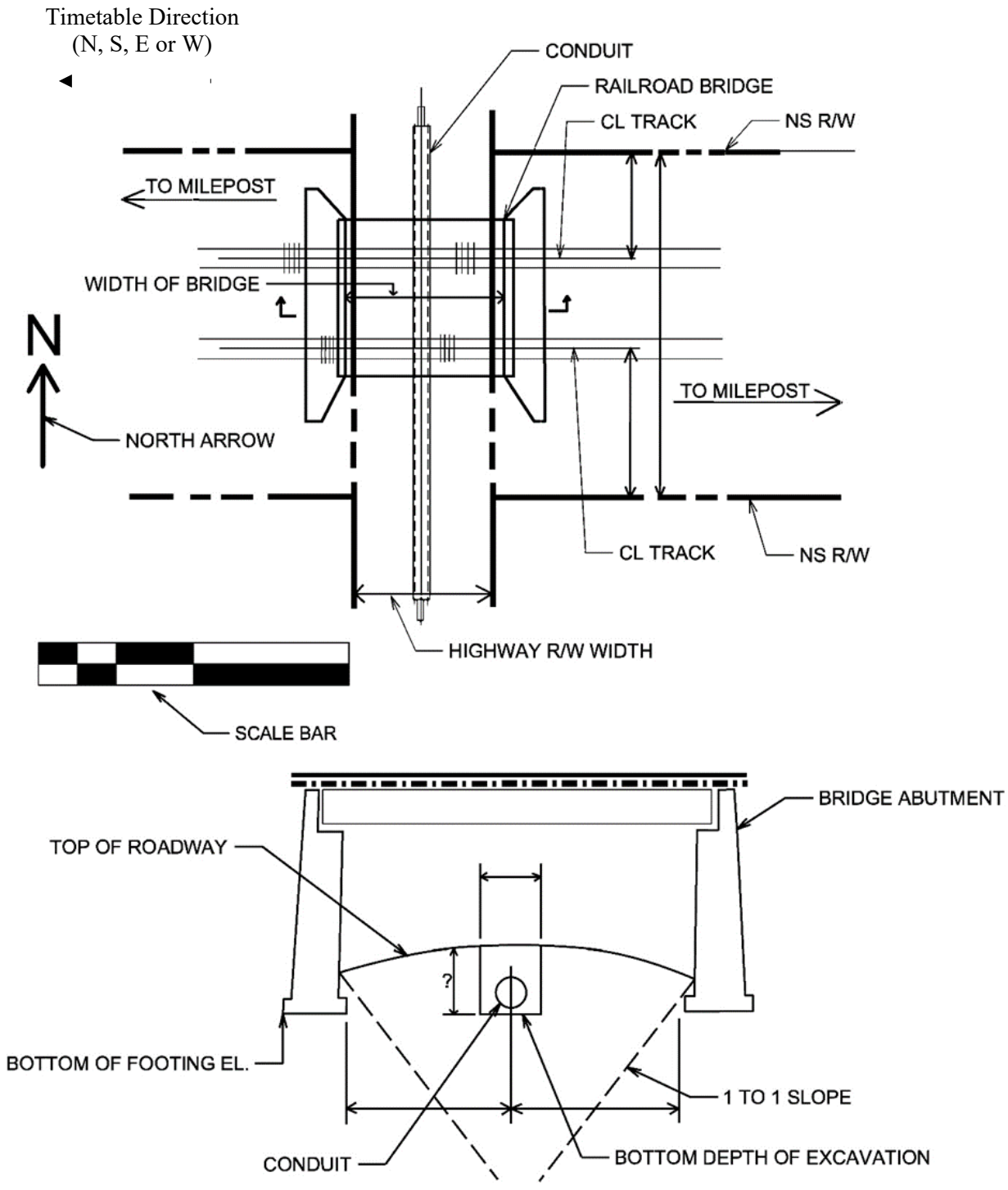
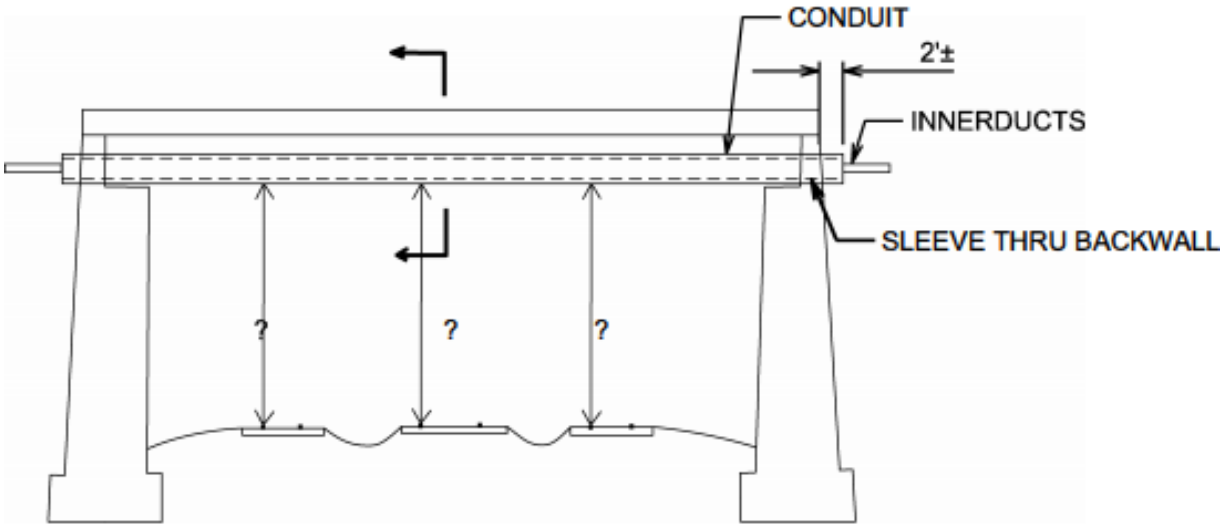
Plate X - Sample Conduit Plan and Section Under Railway Bridge

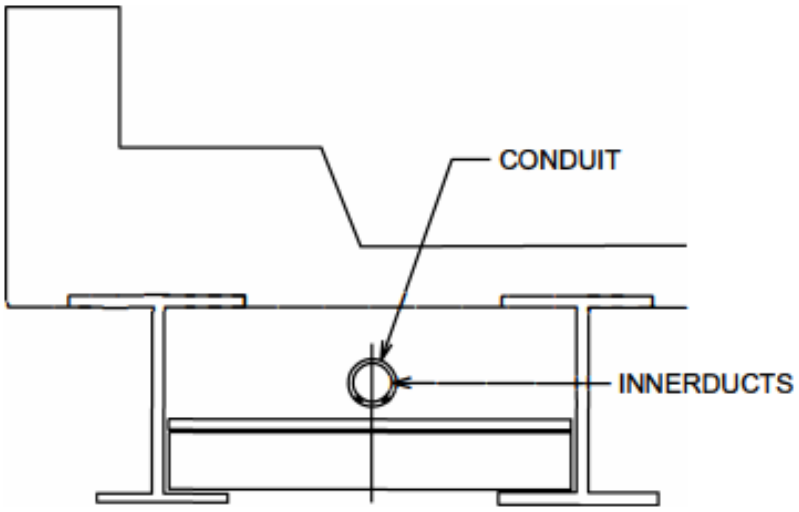


Looking Direction should be
Increasing and Decreasing Milepost

PLATE XI - Sample Conduit Profile and Section Views Pipe in Highway Over Railway

Looking Direction should be
Increasing and Decreasing Milepost





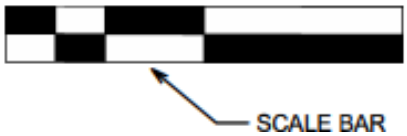


PLATE XII - Signal Clearance Diagram for Mast Mounted Flashers and Gates

STANDARDS AND PROCEDURES

CLEARANCE DIAGRAM FOR UTILITIES ABOVE SIGNAL APPARATUS

Initial date 7/15/03

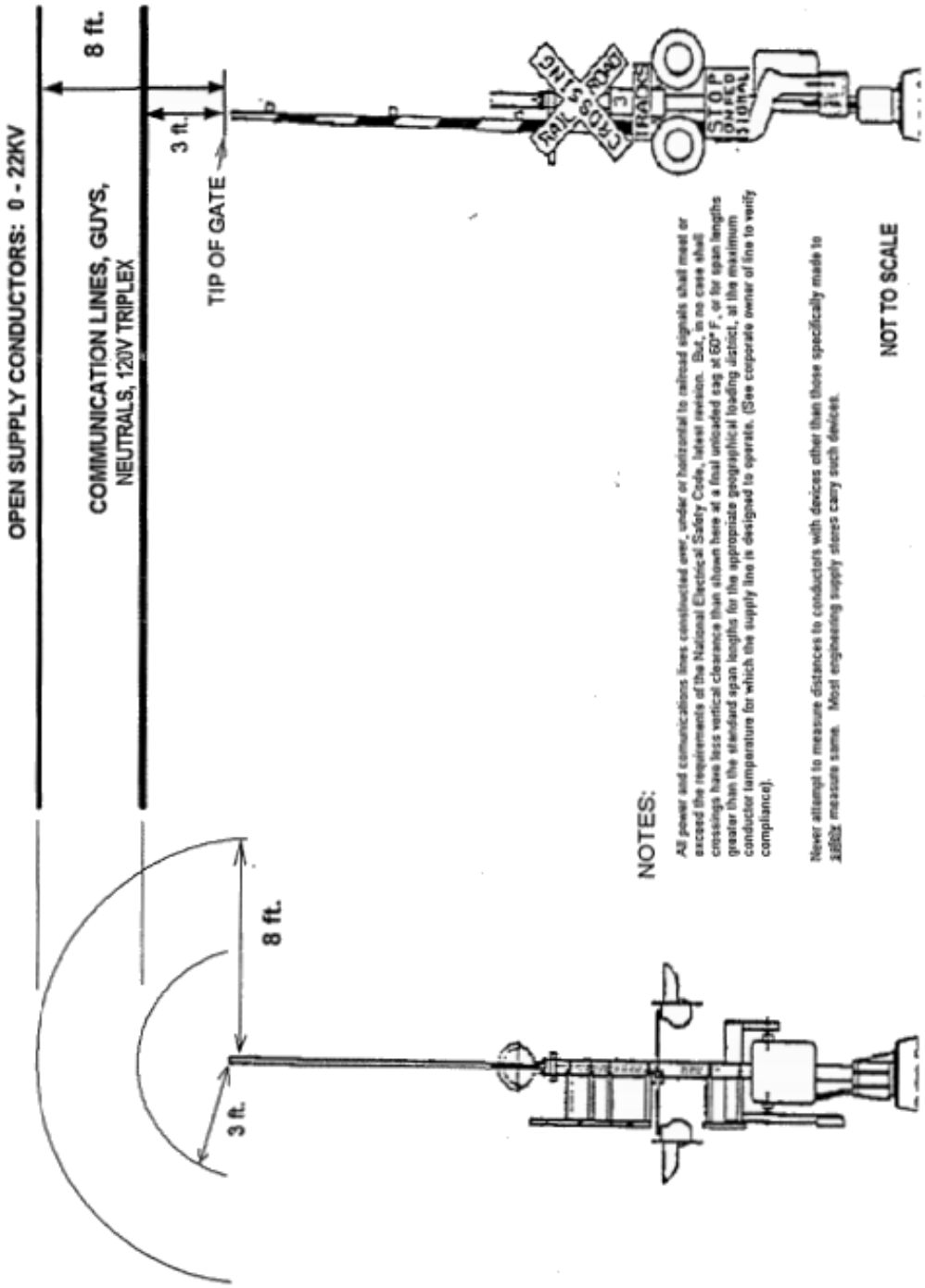


PLATE XIII - Signal Clearance Diagram for Cantilever Mounted Flashers and Gates

CLEARANCE DIAGRAM FOR UTILITIES ABOVE SIGNAL APPARATUS

Initial date 7/15/03

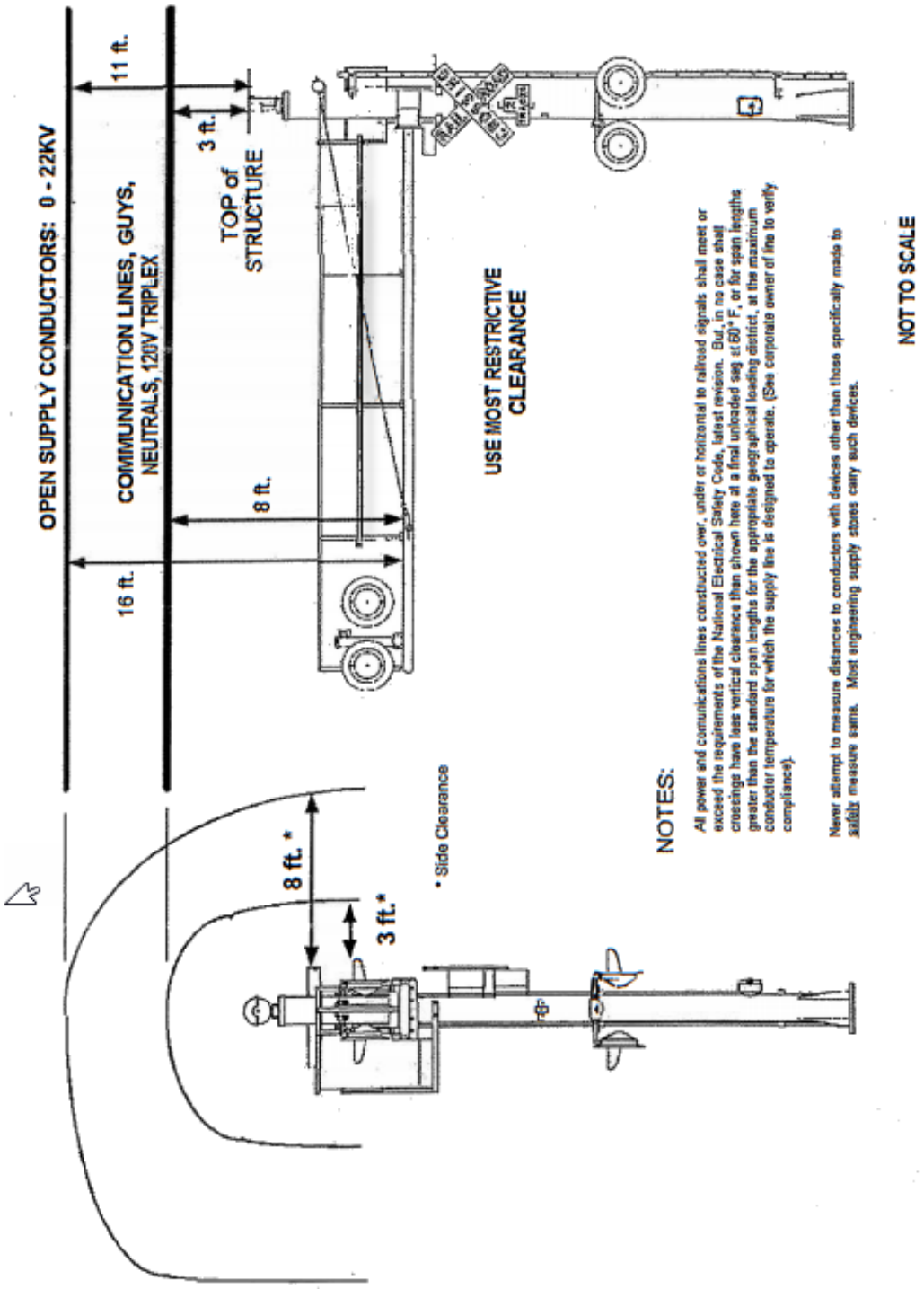
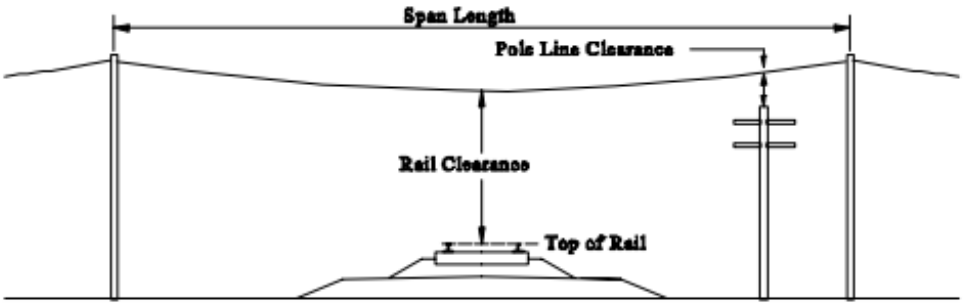


PLATE XIV - STANDARDS AND PROCEDURES

CLEARANCE REQUIREMENTS FOR CABLE AND WIRE CROSSINGS Initial date 9/1/93 - Revised 3/24/06

Note: All power and communication lines constructed over, under or parallel to the railroad shall meet or exceed the requirements of the National Electric Safety Code (NESC), latest revision.

OVERHEAD CLEARANCE



In no case shall crossings have less vertical clearance than the following at a final unloaded sag at 60° F, or for span lengths greater than the standard span lengths for the appropriate geographic loading district, at the maximum conductor temperature for which the supply line is designed to operate.

Distance Above	Guys, Messenger, and Communications Spans	Open Supply Line or any Neutral (phase to ground voltage)		
		Less than 750 V	750 V to 15 KV	15 KV to 50 KV *
Rail	27 feet	30 feet	31 feet	33 feet
Pole Line	2 feet	2 feet	4 feet	6 feet
* Add 1/2 inch for each 1000 volts (phase to ground) above 50 KV.				

Loading District	Standard Span Lengths
Heavy	175 feet
Medium	250 feet
Light	350 feet
Note - The applicant will furnish line design final sag data.	

NEW YORK STATE
PUBLIC SERVICE COMMISSION

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC RESPONSE TO INTERROGATORY/DOCUMENT REQUEST DPS-4

Date of Request: **December 24, 2021**

Request No.: **DPS-4**

From: **DPS Staff – Jasmine Matley**

Subject: **Cultural Resources**

Information Requested:

1. The confidential Application Appendix 4-B provides a Phase 1B Archeological Survey for the Area of Potential Effect (APE) associated with the original Application layout (2018). The Appendix 4-B Phase 1B Archeological Survey provides recommendations to reduce and/or minimize the construction APE to avoid the four precontact archeological sites. Please provide a copy of the New York State Historic Preservation Office's (SHPO) response to the original Phase 1B Archeological Survey establishing a determination of No Adverse Impact or otherwise indicating whether additional Phase II surveys are required.

RESPONSE:

A copy of SHPO's response to the Final Phase 1B Archeological Survey is enclosed as Attachment A.

2. On November 8, 2022 the Applicant provided a Second Supplement to its Application to reflect changes to the route of the proposed transmission line and pole locations. Please provide:

a. A proposed work plan for any additional Phase 1B and/or Phase II Archeological Surveys associated with the revised Project layout;

RESPONSE:

A copy of the Phase 1B and Phase 2 Work Plan is provided as Attachment B.

b. A copy of the response from the SHPO establishing its concurrence with the proposed methods for conducting the Phase 1B and/or Phase II testing at select locations and the results of any related SHPO correspondences;

RESPONSE:

A copy of the response from the SHPO is provided as Attachment C.

c. And an approximate timeframe for when the Applicant anticipates submitting the additional Phase 1B and/or Phase II Archeological Surveys.

RESPONSE:

The Applicant has completed the Phase 1B surveys and expects to complete the Phase 2 surveys in January 2022 (weather permitting). The survey report discussing the findings is expected to be completed in March 2022.

Name of Person(s)
Preparing Response: Jeff Veazie **Date: December 30, 2021**

Attachment A

NEW YORK STATE OF OPPORTUNITY. | Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

April 09, 2019

Mr. Eric Miller
Invenergy
120 North Lee Street
Falls Church, VA 22046

Re: USACE
Canisteo Wind Energy Center/127 Turbines/453-590 Feet/290.7MW
Steuben County, NY
17PR06147
16-F-0205

Dear Mr. Miller:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

I have reviewed the revised reports of the Phase IB archaeological investigations of the Facility and the Transmission Line. Thank you for completing the report changes that I recommended in my letter dated March 6, 2019. As stated in my previous letter, I concur with the Transmission Line report recommendations regarding the four Precontact Native American archaeological sites identified during the Phase I archaeological survey: PCI/Canisteo Precontact Sites 1, 2, 3, and 4. If impacts to the four sites cannot be avoided, then Phase II site evaluations should be conducted.

If further correspondence is required regarding this project, please refer to the SHPO Project Review (PR) number noted above. If you have any questions I can be reached at 518-268-2186.

Sincerely,

Tim Lloyd, Ph.D., RPA
Scientist - Archaeology
timothy.lloyd@parks.ny.gov

via e-mail only

cc: A. Davis, C. Abrams, C. Longiaru, G. Johnson, J. Toth, K. Bruce, M. Robinson, M. Connerton, R. Hanley

Attachment B

BUFFALO • TUSCALOOSA • MEMPHIS

2390 Clinton Street | Buffalo, NY 14227 | (716) 821-1650

November 18, 2021
(sent via email)

Dr. Tim Lloyd
Scientist – Archaeology
Division for Historic Preservation
NYS Office of Parks, Recreation & Historic Preservation
Peebles Island, PO Box 189
Waterford, New York 12188-0189

Subject: Additional Phase 1B and proposed Phase 2 Archaeological Investigations for the Canisteo Wind Energy Center Project Transmission Line, Towns of Cameron, Canisteo, Greenwood, Jasper, Troupsburg, and West Union, Steuben County, New York. NYSHPO #17PR06147.

Dear Dr. Lloyd:

On behalf of Canisteo Wind Energy LLC (CWE), Panamerican Consultants – A Commonwealth Heritage Group Company (PCI-CHG) has drafted this work plan for an additional Phase 1B archaeological investigation and a proposed Phase 2 investigation for the Transmission Line component of the Canisteo Wind Energy Center (Project) (OPRHP #17PRO6147). The additional Phase 1B testing is being completed as a result of construction design revisions for the transmission line (Figure 1). The Phase 2 level of effort is proposed for testing structure locations situated in the project's area of potential effect (APE): - Precontact Native American Sites PCI/Canisteo-2 (USN10107.000045) and PCI/Canisteo-3 (USN10107.000023).This document focuses on the transmission portion of the project; the power generation part of the project has been separated since the previous submissions to SHPO and it will be submitted for a separate review.

The proposed transmission line consists of a new approximately 15.4-mile-line115-kV electric transmission line extending 6 miles along the Canisteo River valley, with the remaining portion (9.4 miles) found within upland environs (Figure 1). The proposed Transmission Line is within the towns of Canisteo, Hornellsville, and Jasper, as well as the Village of Canisteo - in Steuben County, New York. The maximum APE for the transmission line component of the Canisteo Wind Energy Center is 176.3 acres (71.3 hectares).

A Phase 1B investigation of the Transmission Line's 100-ft wide APE was conducted in July and August, 2018 (Handley 2019). Per the testing plan submitted to SHPO (July 9, 2018), the Phase 1B survey of the Transmission Line APE allocated an increase in shovel tests placed along the north portion of the transmission line APE situated along the Canisteo River valley due to the archaeological sensitivity of the area (i.e., proximity to portable water, well drained soils, level surfaces) – as opposed to allocating tests along the south portion situated within sloped upland settings (Figure 2). Excluded from testing within the river valley was an extensive wetland, several road crossings, and a waste/water treatment plant. The survey included a combination of shovel testing at 5-m intervals in the portions of the APE found within soy fields and grass covered areas;

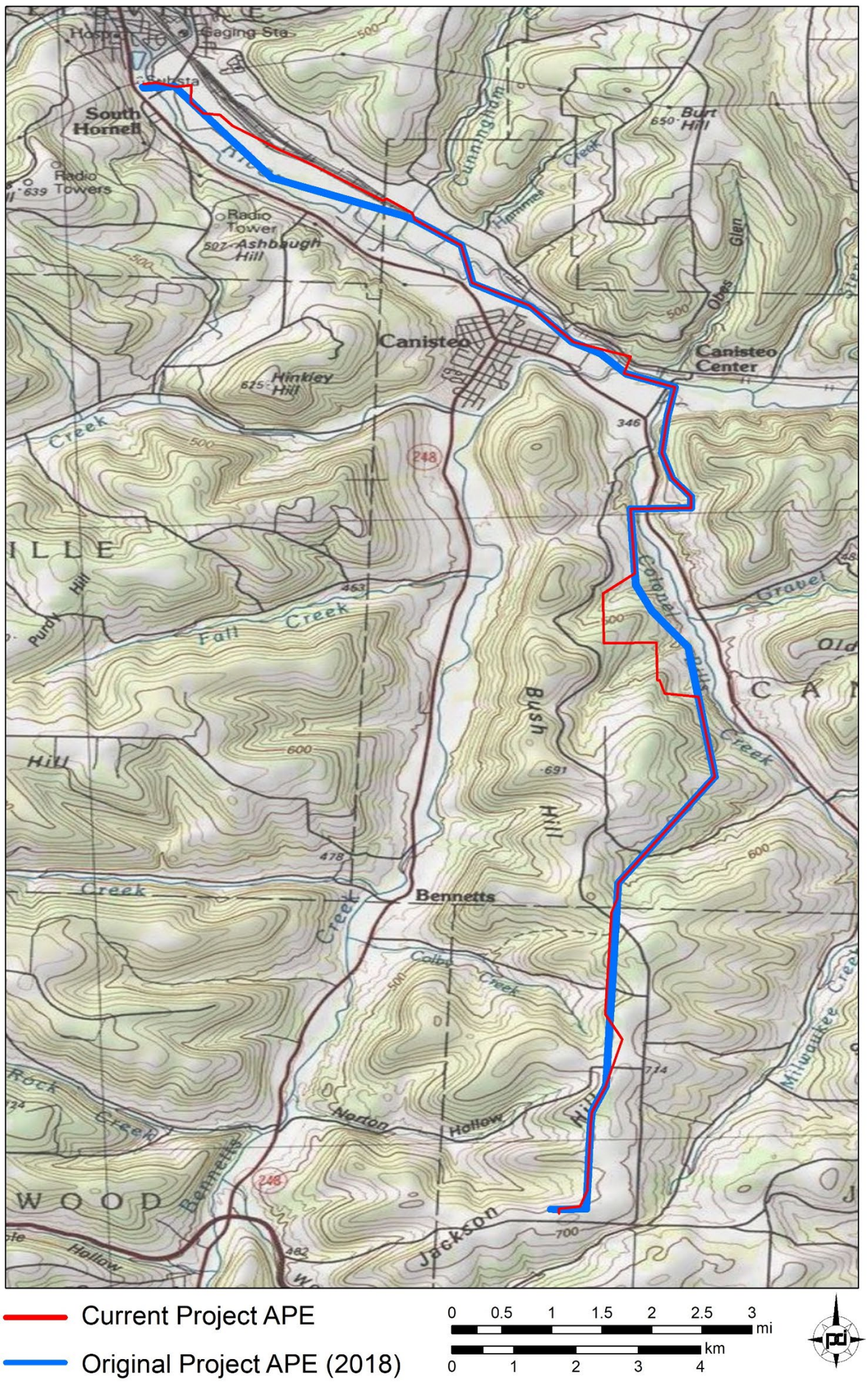


Figure 1. General project location of the Canisteo Wind Energy Center Transmission Line in the towns of Canisteo, Hornellsville, and Jasper in Steuben County, New York *(USGS 1985)*.

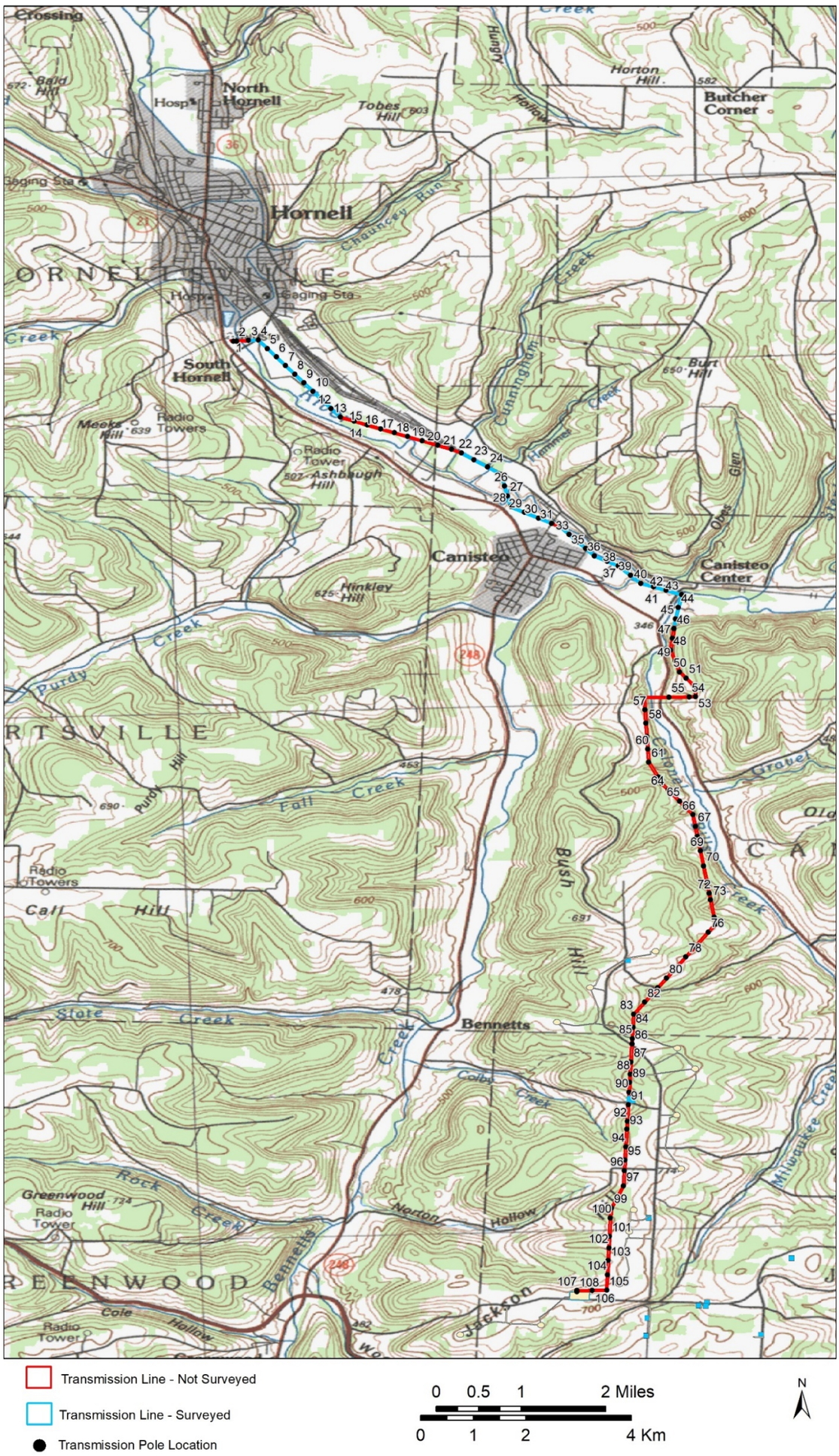


Figure 2. Selected survey locations within the APE of the Canisteo Wind Energy Center Transmission Line Project Area in 2018 *(USGS 1986; Hanley 2019)*.

surface inspection was employed for portions of the APE found within cornfields exhibiting 80 percent or higher surface visibility. Parts of the Transmission Line APE found in cornfields with less than 80 percent surface visibility were shovel tested.

No precontact archaeological sites were found in the uplands portion of the Transmission Line during survey for the APE of the entire Canisteo Wind Energy Center project. Four precontact sites were identified during Panamerican's previous investigation of the transmission line corridor in proximity to the Canisteo River:

- ***PCI/Canisteo Precontact Site 1 (USN 10117.000041).*** This site was identified as 13 lithic artifacts found across an approximately 120-m (394-ft) long section of the Transmission Line corridor (Figure 2). The lone diagnostic artifact (Levanna projectile point) indicates a Late Woodland Period occupation.

- ***PCI/Canisteo Precontact Site 2 (USN 10107.000045).*** The south end of this site has been disturbed by activity associated with the adjacent sewage plant. This site was identified as multiple precontact artifacts found along a 1,045-m (3,430-ft) long portion of the transmission line between proposed Towers 32 and 38 (Figure 2). A total of 1,237 precontact artifacts were found including 1,166 pieces of debitage and 49 tools (35 ceramic pot sherds; 3 projectile points [two are diagnostic Levanna and Madison points and the third is a broken point tip]; 5 biface fragments; 2 drill fragments; 1 scraper; 2 utilized flakes; and one possible groundstone tool fragment). A possible hearth feature found within STP B.18—near Tower 35—was between 40 cm and 60 cm below ground surface.

  Previously reported Tom's Lake #1 precontact site (New York State Museum [NYSM] Site 8598) is at or adjacent to the south end of Precontact Site 2. It is therefore possibly associated with or is an extension of Tom's Lake #1. Diagnostic artifacts (e.g., Levanna and Madison projectile points, decorated ceramic sherds) found at PCI/Canisteo Precontact Site 2 (USN 10107.000045) are indicative of Middle to Late Woodland occupation.

- ***PCI/Canisteo Precontact Site 3 (USN 10107.000023).*** This site includes multiple precontact finds identified along a 135-m (445-ft) long portion of the transmission line between proposed Towers 42 and 43 (Figure 2). Ten precontact lithic artifacts including one tool (a broken projectile point or knife tip) and nine pieces of debitage were found during surface inspection of a corn field. The debitage includes: one primary reduction flake, one tertiary reduction flake, four flake fragments, and one piece of shatter. Previously reported precontact Colonel Bill Creek Site (USN Number: 10107.000023 [also assigned to PCI/Canisteo Precontact Site 3 by SHPO]) appears to be at the same location as PCI/Canisteo Precontact Site 3 and is therefore likely the same site, but no diagnostic artifacts were found during the Phase 1 investigation at this site.

- ***PCI/Canisteo Precontact Site 4 (USN 10107.000046).*** This site includes 10 precontact finds identified along an approximately 96-m (320-ft) long portion of the transmission line between proposed Towers 44 and 45 (Figure 2). The precontact lithic artifacts including one tool and nine pieces of chert debitage were found on the ground surface. The tool is a scraper made from an expediently modified flake and the debitage includes: one primary reduction flake, three secondary reduction flakes, two flake fragments, and three pieces of shatter. The Royce Kilmer (NYSM 7126; USN 10107.000010) multi-component (Archaic, Woodland, Late Woodland) village site was previously reported approximately 400 m (1,300 ft) southwest of this site.

- ***Isolated/Other Precontact Finds.*** Ten precontact lithic artifacts were also found at scattered locations along the transmission corridor but were not considered to represent archaeological sites due to either isolated/stray locations or disturbances.

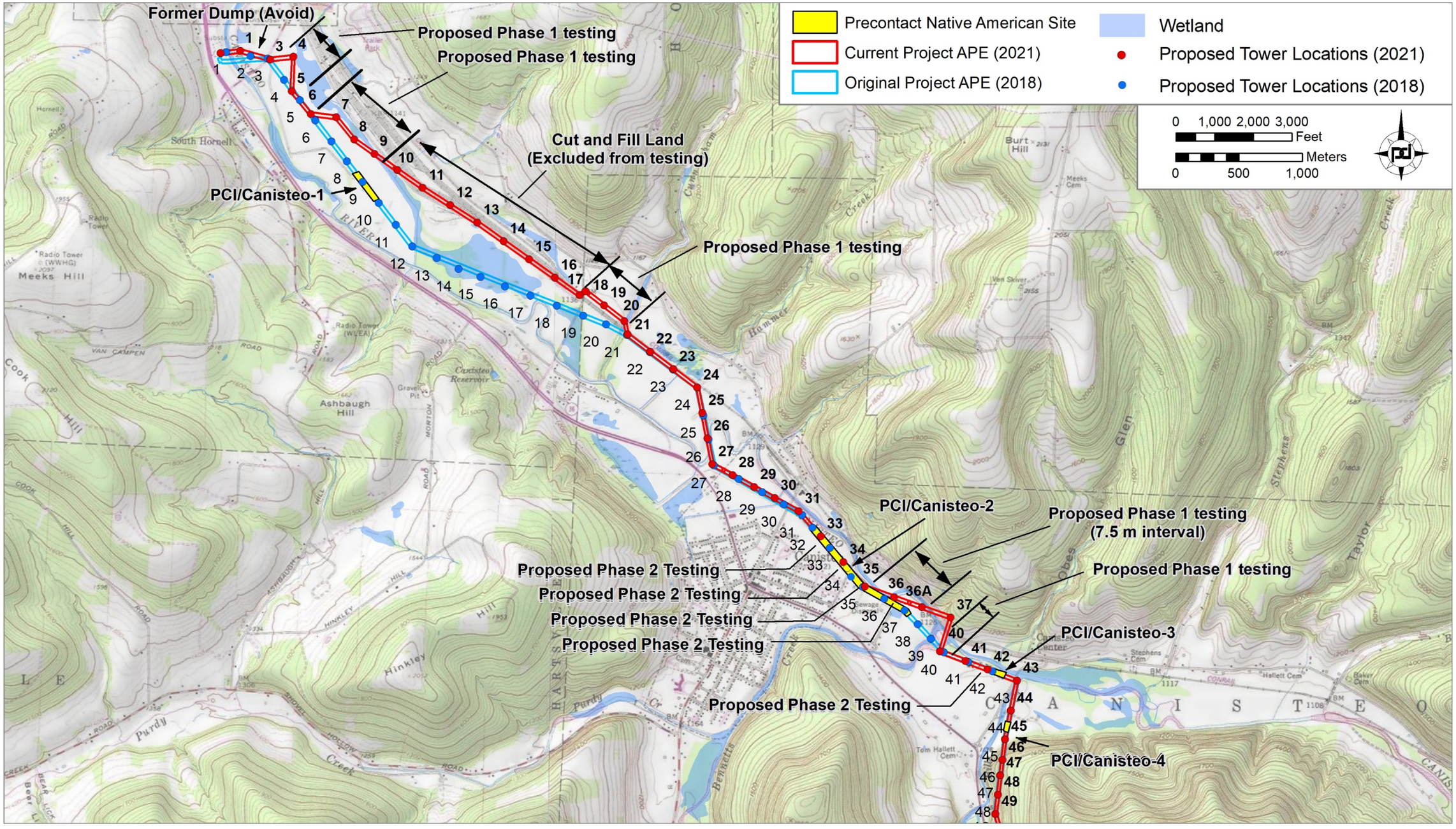


Figure 3. Proposed Phase 1B Addendum and Phase 2 investigations of the Canisteo Wind Energy Center Transmission Line in the Village of Canisteo, Steuben County, New York.

The Phase 1B Investigation (Hanley 2019) indicated Precontact Sites PCI/Canisteo 1 through 4 are potentially eligible for listing in the National Register of Historic Places (NRHP). Avoidance or Phase 2 investigation was recommended for portions of the project where the sites could not be avoided. No further investigation was recommended for isolated finds outside PCI/Canisteo Precontact Sites 1 through 4 (Hanley 2019). In a letter dated April 9, 2019, SHPO concurred with the report's recommendation regarding the four Precontact Native American archaeological sites identified during the Phase 1B archaeological investigation: PCI/Canisteo Precontact Sites 1, 2, 3 and 4, and that if impacts to the four sites cannot be avoided, then Phase 2 site evaluations should be conducted (letter from Dr. Tim Lloyd to Mr. Eric Miller [Invenergy]).

Design revisions (2021) to the Transmission Line Corridor APE.

Invenergy is proposing design changes to the transmission corridor line in effort to avoid or limit disturbance to the four PCI/Canisteo Precontact sites (Figure 3; see Attachment A: Electrical Consultants, Inc [ECI] letter dated February 19, 2019). Effort was made to minimize disturbance at these sites by either avoiding the sites entirely or where not feasible, relocating structures to areas where subsurface inspection results were negative. The modifications made to the original design are detailed below:

1.0 PCI/Canisteo Precontact Site-1
One (1) structure (Structure No. 10) was located within the archaeological site. Structure 10 was relocated to a location with negative STP results (Figure 3).

2.0 PCI/Canisteo Precontact Site-2
Six (6) structures (Structures No. 33-38) were located within the archaeological site. Structure 33 was relocated outside of the archaeological site. Structures 34-38 were relocated to locations with negative STP results (Figure 3).

3.0 PCI/Canisteo Precontact Site-3
One (1) structure (Structure no. 42) was located within the archaeological site. Structure 42 was relocated outside of the archaeological site (Figure 3).

4.0 PCI/Canisteo Precontact Site-4
Two (2) structures (Structures No. 44-45) were located within the archaeological site. Structure 44 was relocated to a location with negative STP results. Structure 45 was previously designed to support the wire tension utilizing guy wire anchors. The structure design was modified to a self-supporting structure without guy anchors in an effort to minimize disturbance (Figure 3).

Included in the transmission line modifications, but not related to efforts to avoid or limit impacts with known archaeological sites are three realignments to the APE in upland environs:

5.0 The first realignment is situated between structures 62 and 75, approximately 7,000 feet formerly between them. Changes to the alignment move the transmission corridor as far as 2,000 feet to the west, extending the length of this segment to 10,300 feet (Figure 1). The APE remains within a highly sloped hillside environment which is considered to have a very low archaeological sensitivity).

6.0 The second realignment is situated between structures 89 and 102, approximately 10,240 feet formerly between them. The realignment places the transmission line approximately 50 feet to the west of the original layout in the upper portion; with an eastward variance of up to 620 feet within the south portion (Figure 1). The overall length of APE within this section of the transmission line APE increases approximately 320 ft overall. This portion of the APE outside of the valley also remains within a highly sloped hillside environment which is considered to have a very low archaeological sensitivity).

7.0 The third realignment is situated at the south terminus of the transmission line, between structures 107 and 110/Canisteo Sub Station, approximately 2,300 feet formerly between them. The realignment straightens the original proposed ninety-degree bend, shorting the distance between structure 107 and the substation by 350 ft. The realignment places the transmission up to 270-ft northwest of the original APE. This portion of the APE outside of the valley is found at the base of an eastern sloped hilltop which is considered to have a low archaeological sensitivity).

The proposed structure location changes places approximately 23,535 liner feet (54 acres) of the transmission line corridor APE outside the limits of the original Phase IB investigation (Figure 2). Of the total, 14,660 liner feet (33.6 acres) are within the Canisteo River floodplain. Within the floodplain, just under half (6,300 feet or 3.7 acres) of the new APE aligned within a mapped wetland would be excluded from testing (due to low archaeological sensitivity within poorly drained soils). A total 8,875 liner feet (20.4 acres) of new APE outside the valley is located on steeply sloped or at the base of steeply slopped upland hillsides, which would be excluded from testing.

Proposed additional Phase 1B Scope of Work for portions of the alternate transmission line corridor outside of previous surveyed limits:

The primary goal of a Phase 1B cultural resource investigation is to determine if any archaeological resources exist within the proposed APE or project area. The following is a detailed presentation of Panamerican-CHG's level of effort that will be conducted during the additional Phase 1B investigation.

Phase 1B testing will include two transects of shovel tests, 15 m (50 ft) apart, with tests dug at a 15-m (50-ft) interval in areas exhibiting potential undisturbed soils (excluding areas with standing water or excessive slope). Portions of the revised APE found in close proximity of a site are considered to have an increased archaeological sensitivity and will be tested at an increased 7.5 (25-ft) interval. Portions of the revised APE outside of previous surveyed areas include:

1. Between former towers 3 and 5: 1,500 ft situated in ag field (3.4 acres).
2. Between former towers 6 and 9: 2,100 ft situated in ag field (4.8 acres).
3. Between former towers 9 and 19 (in proximity of Ice House Rd): 6,300 ft situated across wetlands (14.5 acres) (Area to be photo-documented and excluded from testing).

4. Between former towers 19 and 21 (between Magee Rd and Cunningham Creek): 1,500 ft situated in field (3.4 acres).
5. Between former towers 35 and 38 (ag fields straddling a sewer treatment plant): 1,600 ft (3.7 acres); of which 650-ft (1.5 acres) are testable. **This area is in proximity to Site PCI/Canisteo-2 and will be tested at closer interval – i.e., 4 transects 7.5-m apart with tests at 7.5-m interval due to increased archaeological sensitivity**.
6. Between former towers 38 and 40 (crossing Canisteo River and back): 1,660 ft (3.8 acres). (Area to be photo-documented and excluded from testing).
7. Between former towers 64 and 71 (sloped hillside on east side of Bushhill Rd): 5,875 ft realignment (13.5 acres). (Excessive slope: Area to be photo-documented and excluded from testing).
8. Between former towers 73 and 74 (sloped hillside on east side of Bushhill Rd): 1,050 ft realignment (2.4 acres). (Excessive slope: Area to be photo-documented and excluded from testing).

The field investigation will include an on-site field inspection and subsurface shovel testing conducted according to SHPO standards in all sensitive areas. Any areas of severe slope (i.e., over 15%), obvious disturbances, or with surface water will only be visually inspected. Shovel tests will be 30 cm to 50 cm (11.8 in to 19.7 in) in diameter and dug to undisturbed or non-artifact bearing subsoil (not to exceed 100-cm [39.4 in] depth) at a 50-foot (15-meter interval). All excavated soils will be screened through ¼-inch hardware cloth and results recorded on Panamerican's shovel test record forms.

Transects of shovel tests will be numbered in a systematic fashion. Soils excavated from shovel tests should be carefully screened as noted above to recover cultural material, if present. All stratigraphic profiles will be described appropriate field forms. Information recorded will include, but not be confined to, descriptions of soil type, texture, color, condition, and the presence or absence of cultural materials or cultural features.

Documentation of fieldwork activities will include the recording of field observations on appropriate forms. Photography will be employed to document field conditions, observations, and field techniques.

If required, laboratory analysis of artifacts, including cleaning, identification, and cataloging, will be conducted at Panamerican's Buffalo office. Artifacts will be grouped by provenience and uniquely numbered and identified on artifact identification cards made from acid-free paper. Catalog numbers will not be written on artifacts. Artifact analysis will be presented in the final report.

The Phase 1B portion of the report will include a description of the field survey design and methodology; complete records of soil stratigraphy and, if materials are found, an artifact catalog including identification, estimated date range, and quantity. The locations of all shovel tests will be accurately plotted on a project area map, with locations of identified resources clearly defined. Detailed recommendations and supporting rationale will be included in the report.

Proposed Phase IB Scope of Work for testing structure locations situated within or in proximity of two of the sites that are unavoidable:

The Phase 2 investigation is recommended at pole locations within sensitive (previously identified sites) areas. The potential APE impact at each pole location is limited to a 5-ft diameter area with varying depths greater than 20 feet.

Panamerican proposes two 1x1-meter (3.6 ft by 3.6 ft) excavations to a maximum depth of 1.2 meters (4 ft) at each structure location situated within or in close (100-ft) proximity to previously identified site limits to determine the vertical limits of the site, the presence of potential intact, sub-surface, and/or stratified deposits, site structure, and site formation processes in order to evaluate an archaeological site's eligibility for inclusion in the National Register of Historic Places (NRHP).

Additional monitoring by an archaeologist of excavated soils during structures installation at Phase 2 investigated locations is recommended to document potentially deeply buried cultural resources (i.e., features or unanticipated burials) are not impacted.

The proposed Phase 2 investigation includes:

> At Site PCI/Canisteo-2; the investigation would require two test units excavated at each of the four new pole locations: (33, 34, 35, and 36), located on the north side of the Village of Canisteo between Depot Street and Dunning Road (Figure 3). The results of the addendum Phase 1B may indicate the site extends close enough to a fifth relocated pole location (structure 36A) that would result in two more required excavation units.
>
> Each unit will be excavated to 1m to 1.5-m depth (limits of safe excavation in unshored hole) as alluvial soils are present.
>
> At Site PCI/Canisteo-3, at least two units would be required at new pole location 42 located adjacent to the site.

The Phase 2 investigation does not include survey of temporary access roads, work areas or laydown areas as the potential ground disturbance associated with these activities needs to be further defined prior to review by SHPO.

The investigations will comply with all state and federal laws and regulations, including the necessary documentation and level of effort required by the National Historic Preservation Act, State Environmental Quality Review Act (SEQRA), the New York State Department of Environmental Conservation, New York Archaeological Council's (NYAC) standards, and NYSHPO guidelines.

Human remains are not anticipated during the investigations. In the unlikely event they are found, the protocols outlined in the SHPO Human Remains Discovery Protocol will be implemented. If the remains are Native American, then the procedures described in the Haudenosaunee Human Remains Discovery Protocol will be followed.

Panamerican will prepare a complete Phase 1B Investigation and Phase 2 Investigation report detailing methods, results, conclusions, and recommendations. It will be submitted to SHPO upon

completion. If you have any questions or require any additional information, please do not hesitate to contact me at (716) 821-1650.

Sincerely,

Edwin W. Button, M.A., RPA

ATTACHMENTS

Attachment A: Electrical Consultants, Inc., letter dated February 19, 2019

REFERENCES

ArcGIS/ESRI
2019 Maps created using ArcGIS® software by Esri. Online at www.esri.com.

Hanley, Robert / Panamerican Consultants
2019 *Phase IB Archaeological Investigation of the Canisteo Wind Energy Center Project Transmission Line, Town of Canisteo, Hornellsvill, and Jasper, and the Village of Canisteo, Steuben County, New York.* Prepared for Invenergy Wind LLC, Chicago, Illinois, by Panamerican Consultants, Buffalo New York.

New York Archaeological Council (NYAC)
1994 Standards for Cultural Resource Investigations and the Curation of Archaeological Collections. New York Archaeological Council, Albany.

USGS (U.S. Geological Survey)
1954 (1978) *Canisteo Quadrangle, New York—Steuben Co., 7.5 Minute Series (Topographic).* U.S. Geological Survey, Department of the Interior, Washington, D.C.

Attachment A. ECI letter dated February 19, 2019

"Engineering with Distinction"

ELECTRICAL CONSULTANTS, INC.

BILLINGS OFFICE: 3521 GABEL ROAD, BILLINGS, MONTANA 59102 • PHONE: 406-259-9933 • FAX: 406-259-3441

February 19, 2019

Mr. Gordon Woodcock
Senior Associate, Renewable Development
Invenergy, LLC
123 South Cayuga Street, Suite 201
Ithaca, NY 14850

Re: Canisteo 115 kV T-Line Modifications for Limiting Archaeological Disturbance

Dear Gordon:

Electrical Consultants Inc. (ECI) was requested by Invenergy to make modifications to the proposed transmission line in efforts to avoid or limit disturbance within Archaeological Precontact sites found along the transmission line route. Effort was made to minimize disturbance at these site by either avoiding the sites entirely or where not feasible, relocating structures to areas where subsurface inspection results were negative (negative STP). The modifications made to the original design have been detailed below.

1.0 Precontact Site 1:
One (1) structure (Structure No. 10) was located within the Precontact site. Structure 10 was relocated to a location with negative STP results.

2.0 Precontact Site 2:
Six (6) structures (Structure No. 33-38) were located within the Precontact site. Structure 33 was relocated outside of the Precontact site. Structures 34-38 were relocated to locations with negative STP results.

3.0 Precontact Site 3:
One (1) structures (Structure No. 42) was located within the Precontact site. Structure 42 was relocated outside of the Precontact site.

4.0 Precontact Site 4:
Two (2) structures (Structure No. 44-45) were located within the Precontact site. Structure 44 was relocated to a location with negative STP results. Structure 45 was previously designed to support the wire tension utilizing guy wire anchors. The structure design was modified to a self-supporting structure without guy anchors in an effort to minimize disturbance.

In summary, two (2) structures were moved outside of the Precontact Sites, ten (10) guy wire anchors were eliminated from the design and eight (8) structures were relocated to negative subsurface inspection results.

Sincerely,

Aaron M. White, P.E.
Transmission Engineer

NEW YORK STATE OF OPPORTUNITY. | Parks, Recreation, and Historic Preservation

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

December 03, 2021

Kaitlin McCormick
Invenergy
123 S. Cayuga St.
Suite 201
Ithaca, NY 14850

Re: USACE
Canisteo Wind Energy Center and Transmission Line
Steuben County, NY
17PR06147
16-F-0205 and 19-T-0041

Dear Kaitlin McCormick:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

We have reviewed the "Additional Phase 1B and Proposed Phase 2 Archaeological Investigation for the Canisteo Wind Energy Center Project Transmission Line." The SHPO concurs with the proposed addendum Phase IB archaeological survey of new reroutes of the transmission line.

The proposed Phase 2 archaeological investigations will be conducted on two Native American archaeological sites: PCI/Canisteo Precontact Site 2 (No. 10107.000045) and PCI/Canisteo Precontact Site 3 (No. 10107.000023). It is SHPO's opinion that the relevant Native American Nations should be provided the opportunity to comment on the proposed archaeological investigations prior to initiating fieldwork. SHPO will contact the relevant Native American Nations.

If further correspondence is required regarding this project, please refer to the SHPO Project Review (PR) number noted above. If you have any questions, please contact me via email.

Sincerely,

Tim Lloyd, Ph.D.
Scientist - Archaeology
timothy.lloyd@parks.ny.gov

via e-mail only

NEW YORK STATE
PUBLIC SERVICE COMMISSION

In the Matter of:	:	
Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law.	:	Case 19-T-0041

CANISTEO WIND ENERGY LLC RESPONSE TO INTERROGATORY/DOCUMENT REQUEST DPS-5

Date of Request: **February 1, 2022**

Request No.: **DPS-5**

From: **DPS Staff – Russell King**

Subject: **City of Hornell Sewer and Stormwater Drainage Infrastructure**

Information Requested:

1. Canisteo Wind Energy, LLC (CWE) will conduct construction activities within the City of Hornell (City). Detail the proximity of CWE's onsite construction activities within the City to the City's sewer and storm drainage infrastructure.

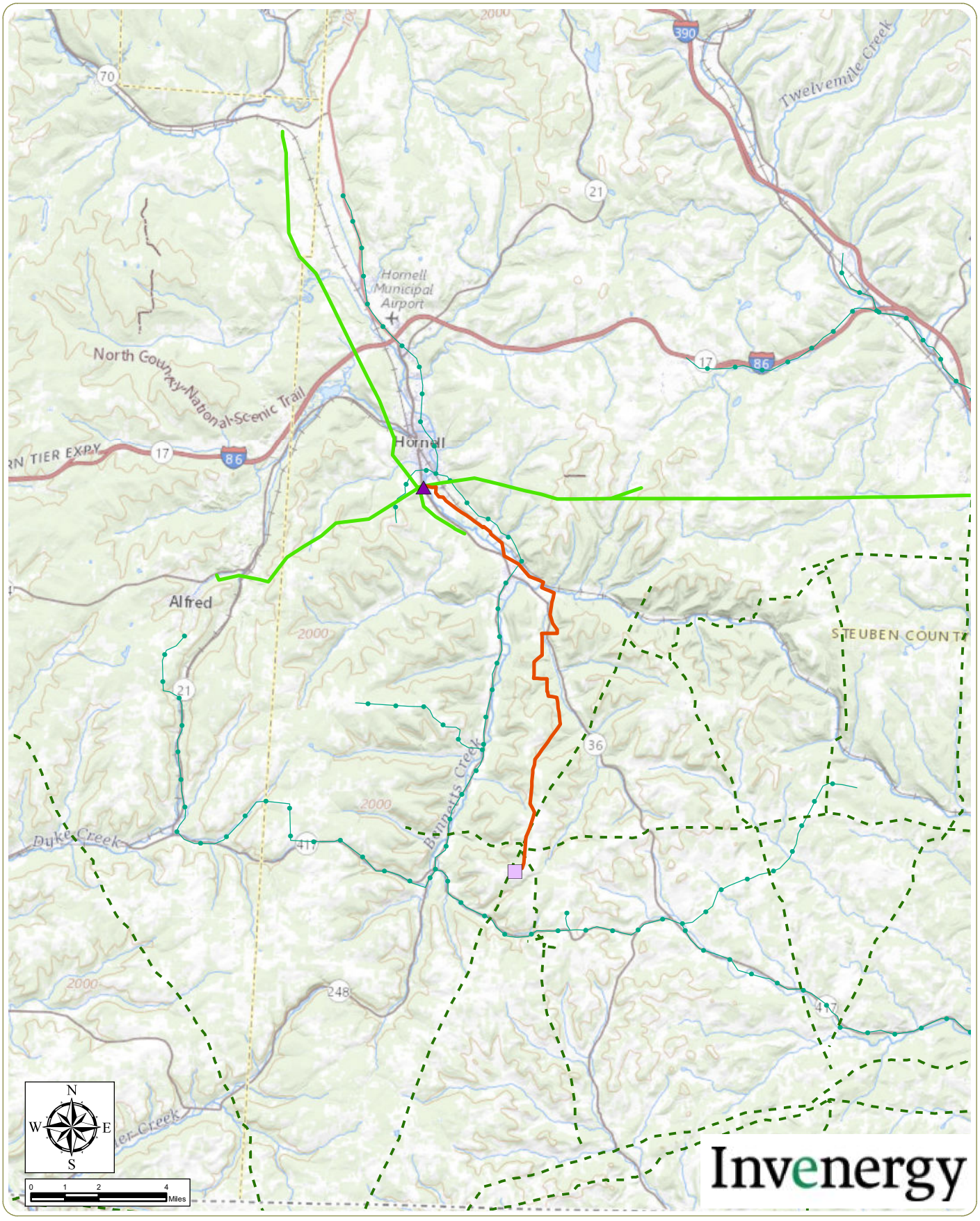
RESPONSE:

The nearest location where installation activities will take place to a road in use by the public is 300 feet distant from Ice House Rd., although there is no evidence that in that area Ice House Rd. has storm drains. The topography of the area is such that storm water from construction would not drain to Ice House Rd. All onsite (i.e., within the ROW) construction activities will comply with the 2020 NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, GP-0-20-001. The Hornell sewer infrastructure will not be employed by CWE.

Name of Person(s)
Preparing Response: Jeffrey Veazie **Date: February 2, 2022**

Case 19-T-0041 Joint Proposal

Appendix B – Location of Transmission Facility



Cansiteo Wind Transmission Facility

Towns of Jasper, Canisteo, and Hornellsville, Steuben County, New York

Article VII Application

Figure 2-2: Location of Facilities on Topographic Mapping (1:250,000 Scale) - Rev 1

Notes: 1. Basemap: "USGS TNM Topo Base Map" displayed via the USGS topo map service. **2.** This map was generated in ArcMap on October 26, 2021. **3.** Map scales is 1:250,000. **4.** This is a color graphic. Reproduction in grayscale may misrepresent the data.

- POI Substation
- Collection Substation
- Transmission Line
- Existing Pipeline
- Existing Fiber Optic Cable
- Existing Transmission Line

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Case 19-T-0041 Joint Proposal

Appendix C – Proposed Findings

CASE 19-T-0041 CANISTEO WIND ENERGY LLC
APPENDIX C TO JOINT PROPOSAL
PROPOSED FINDINGS

Based on the record, as identified in the Joint Proposal, the Commission finds and determines as follows:

1. The proposed Transmission Facility is needed to enable Canisteo Wind Energy LLC's (CWE) planned wind farm to deliver wind powered electricity into the New York State bulk power system. The Board on Electric Generation Siting and the Environment determined that construction and operation of the CWE wind farm will serve the public interest and meet a public need. By means of the proposed Transmission Facility the wind farm will deliver renewably produced energy for use by New York State electricity customers and the associated environmental attributes needed by the State to assist in meeting the State's clean energy goals.

2. The construction and operation of the Transmission Facility will have certain unavoidable environmental impacts of a nature typical of well-sited transmission lines of this voltage and length located in rural areas. Such impacts include limited three clearing, limited use of agricultural fields, minimal impacts to wetlands and the introduction of new visual features into the visual landscape.

3. The Transmission Facility minimizes to the extent practicable any significant environmental impacts by: the choice of materials to be used for the conductors and poles; route selection that limits use of wetlands and threatened and endangered species habitat and maximizes proximity to existing corridor infrastructure; commitment to use construction and restoration practices addressing wetland and stream crossings; avoidance of an existing Bald Eagle nest; and invasive species controls.

4. The Transmission Facility minimizes to the extent practicable any significant adverse impact on active farming operations, by siting poles located in active agricultural fields in consultation with landowners and by CWE's commitment to follow Department of Agriculture and Markets' guidelines for transmission facility construction.

5. The Transmission Facility will conform to the requirements of the New York Independent System Operator Open Access Transmission Tariff and all applicable requirements of New York Electric and Gas Corporation and the National Electric Reliability Council.

6. The location of the Transmission Facility conforms to all applicable State and local laws.

7. Construction and operation of the Transmission Facility will serve the public interest, convenience and necessity because it will enable the State to expand the supplies of renewably generated electricity available to New York State consumers and reduce air emissions associated with fossil fuel generated power.

Case 19-T-0041 Joint Proposal

Appendix D – Proposed Certificate Conditions

CASE 19-T-0041 CANISTEO WIND ENERGY LLC
APPENDIX D TO JOINT PROPOSAL

PROPOSED CERTIFICATE CONDITIONS

A. Conditions of the Order

The Commission orders:

1. Subject to the conditions adopted in the attached Order, Canisteo Wind Energy LLC (the "Certificate Holder") is granted a Certificate of Environmental Compatibility and Public Need ("Certificate"), pursuant to Article VII of the New York Public Service Law ("PSL"), authorizing the construction, maintenance and operation of an approximately 15-mile overhead 115 kV transmission line that will connect the proposed Canisteo Wind Energy Facility to the Bennett Substation in the Town of Hornellsville, New York ("Project"). The Project will be located in the Towns of Hornellsville, Canisteo, and Jasper; the Village of Canisteo; and the City of Hornell in Steuben County.

2. The Certificate Holder shall, within 30 days after the issuance of the Certificate, file with the Secretary to the Commission (the "Secretary") either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate. Failure of the Certificate Holder to comply with this condition shall invalidate the Certificate.

3. If the Certificate Holder decides not to commence construction of the Project, it shall so notify the Secretary in writing within 30 days of making such decision and shall serve a copy of such notice upon all parties in the same manner and at the same time as it files with the Secretary.

4. The Certificate Holder shall construct the Project in accordance with this Certificate and the Certificate Holder shall integrate and coordinate maintenance of the certified Project with that of adjacent facilities, if any.

5. The Certificate Holder shall construct the Project in accordance with this Certificate, with the approved Environmental Management and Construction Plan ("EM&CP"), including any Best Management Practices ("BMPs") provided therein, and any subsequent Commission orders.

B. Description and Location of Project

6. Appendix B, entitled "Description and Location of Project," identifies the Project components (the "Project Components") that would be constructed and owned by the Certificate Holder and those that will be owned by NYSEG (the "NYSEG Components"). The proposed location of the Project as set forth in Appendix B is approved.

C. Laws and Regulations

7.

(a) Each substantive Federal, State (including PSL 68), and local law, regulation, code, and ordinance applicable to the Project shall apply, except to the extent that the Commission has expressly declined to apply any substantive local law or regulation as being unreasonably restrictive.

(b) No State or municipal legal provision purporting to require any approval, consent, permit, certificate or other condition for the construction or operation of the Project authorized by the Certificate shall apply, except (i) those of the PSL and regulations and orders adopted thereunder, (ii) those provided by otherwise applicable state law for the protection of employees engaged in the construction and operation of the Project, (iii) those permits issued under a federally delegated or approved environmental permitting program, and (iv) those described in Condition 10 (a).

8. The Certificate Holder shall construct the Project in a manner that conforms to all applicable standards in effect at the time of construction of the American National Standards Institute ("ANSI") including, without limitation, the National Electrical Safety Code ("NESC"), Institute of Electrical and Electronics Engineers ("IEEE"), IEEE standard, and any stricter standards adopted by such Certificate Holder.

9. The Certificate Holder shall file a Long-Range ROW Management Plan ("LRRMP") as part of its EM&CP. The LRRMP shall comply with the applicable conditions of this Order. The Certificate Holder's maintenance of the Project will be in accordance with the Certificate Holder's LRRMP approved as part of the EM&CP.

10.

(a) The Certificate Holder shall coordinate all work on the Project that it performs during construction at State and municipal road and highway crossings with the appropriate State and municipal officials and shall obtain the required authorization for such work, subject to the Commission's continuing jurisdiction.

(b) The Certificate Holder shall coordinate with the appropriate municipal agencies and police departments for traffic management of roads under municipal jurisdiction.

(c) A copy of each permit or approval received by the Certificate Holder from the issuing agencies, including all necessary U.S. Army Corps of Engineers ("USACE") Nationwide permits for construction in federal wetlands affected by the Project, any required permit pursuant to §404 of the Federal Clean Water Act, and the SPDES General Permit, shall be provided to the Secretary re prior to construction.

11. If the Certificate Holder believes that any action taken, or determination made, by a State or municipal agency in connection with this Certificate is unreasonable or unreasonably delayed, it may petition the Commission, upon reasonable notice to that agency, to seek a

resolution of any such unreasonable or unreasonably delayed determination. Such agency may respond to the petition, within five (5) business days, to address the reasonableness of any requirement or delay.

D. Public Health and Safety

12. The Certificate Holder shall design, engineer and construct the Project such that operation thereof shall comply with the electric field standard established by the Commission in Opinion No. 78-13, issued June 19, 1978, and the electromagnetic field limit set by the Commission in Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities, issued September 11, 1990.

13. The Certificate Holder shall engineer and construct the Project to be fully compatible with the operation and maintenance of any nearby electric, gas, telecommunication, water, sewer, and related facilities. Details of such other facilities and measures to protect the integrity, operation, and maintenance of those facilities shall be presented in the EM&CP. The Project shall be designed and constructed to avoid adverse effects on the cathodic protection system and physical conditions of existing structures and any fuel gas pipelines within the Project right-of-way ("ROW") and within 25 feet horizontally of the edge of any Project conductor.

(a) The Certificate Holder shall evaluate the effects of the Project on existing cathodic protection systems for the gas facilities and Metering and Regulation ("M&R") stations, if any, to ensure compatibility with the electric facility design and that AC interference imposed upon the existing gas facilities are mitigated to levels according to the National Association of Corrosion Engineers ("NACE") guidelines or mitigated to not less than existing conditions where existing conditions do not meet such guidelines, if indicated by the facilities' engineers. If further AC interference from the Project is detected after the Project is placed into service, the Certificate Holder shall implement AC interference testing procedures. As soon as is practical to do so, corrective action with respect to the gas facilities' existing cathodic protection system, safety hazards and fault threats shall be taken by the Certificate Holder to ensure measured voltages on the natural gas pipeline and at the M&R station are not higher than safe levels stated in NACE guidelines.

(b) The Certificate Holder shall develop a construction gas line safety plan and present the plan as part of the EM&CP. The gas line safety plan shall include, but not be limited to:

- Crossing method;
- Crossing location;
- Emergency access procedures;
- Survey marking;
- What, how, and when construction activities will be limited;
- Safety training requirements; and,
- Notification procedures for local officials, emergency personnel and landowners/residents.

(c) At no time shall construction activities of any kind be conducted within fifteen (15) feet of any gas pipeline or related facility or in violation of another gas pipeline owners' standards/rules without prior notification to the owner(s) and without providing the owner or owner's appointed representative the opportunity to be present.

The Certificate Holder shall ensure all proposed electric transmission grounding structures do not interfere with the pipeline's cathodic protection system or are capable of conducting a fault current that otherwise would arc to the pipeline or gas facility. The Certificate Holder shall relocate any such grounding structures.

(d) With respect to the location where the Project will cross over a natural gas pipeline owned and operated by Wyckoff Gas Storage Company, LLC ("Wyckoff"), the Certificate Holder shall enter into and submit with its EM&CP an agreement with Wyckoff setting forth agreed upon terms and conditions for the Certificate Holder's excavations and crossing and other construction activities. The Agreement shall, among other things, (1) prohibit blasting of any kind within 1500 feet of the Wyckoff gas pipeline, without the specific written approval of Wyckoff, (2) prohibit the use of herbicides on any portions of Wyckoff's pipeline right-of-way without the specific written approval of Wyckoff, and (3) provide for the purchase, installation and maintenance, all at the Certificate Holder's expense, of two test stations to monitor the effects of electricity transmission on the Wyckoff pipeline, to be located at the crossing location as identified in the Agreement. The Agreement required by this condition can be combined with the Certificate Holder's agreement with Wyckoff required pursuant to Paragraph 14 f. of Attachment A to Appendix A of the Recommended Decision issued by the New York State Board on Electric Generation Siting and the Environment on December 23, 2019, regarding the Certificate Holder's application in Case No. 16-F-0205.

14. The Certificate Holder shall keep local fire department and emergency management teams apprised of on-site hazardous chemicals and waste. All such chemicals and waste shall be secured in a locked and controlled area.

15. The Certificate Holder shall immediately notify DPS Staff and NYSDEC of any fuel or chemical spill about which it is made or becomes aware in accordance with NYSDEC requirements.

16. The Certificate Holder shall comply with the requirements for the protection of underground facilities set forth in 16 NYCRR Part 753 "Protection of Underground Facilities."

17. The Certificate Holder shall take appropriate measures to minimize fugitive dust and airborne debris from construction activity. Exposed soils and roadways shall be wetted as needed during extended dry periods to minimize dust generation. To the extent practicable, water for dust control shall come from municipal water supplies/sources.

18. The Certificate Holder shall ensure that parking for Project construction workers shall be in designated areas which do not interfere with normal traffic, cause a safety hazard, or interfere with existing land uses. These parking areas shall be designated in the EM&CP.

19. The Certificate Holder shall avoid direct disturbance to properties by accessing the Project ROW from existing roadways or off-ROW access roads listed in the EM&CP.

20. The Certificate Holder shall implement a Maintenance and Protection of Traffic ("MPT") plan, included in its EM&CP, that identifies procedures to be used to maintain traffic and provide a safe construction zone for those activities within the roadway ROW. The Certificate Holder also shall prepare MPT plans for each location where construction vehicles will access the Project ROW from the local roadway. The MPT plans shall address temporary signage, lane closures, placement of temporary barriers, and traffic diversion. The Certificate Holder shall ensure that:

(a) All signage utilized at State highways shall comply with the New York State Department of Transportation ("NYSDOT") Manual of Uniform Traffic Control Devices. Placement of signs shall be determined in consultation with the jurisdictional agency.

(b) Flagmen shall be present at all times when equipment is crossing any public road, when equipment is being loaded or unloaded from a vehicle parked on a public road, and where two-lane traffic has been reduced to one lane. All flagging operations shall comply with 17 NYCRR Part 131.

21. The Certificate Holder or its suppliers shall obtain any required permits from applicable agencies to the extent required in connection with the delivery of oversized equipment.

E. Environmental Management and Construction Plan

22. The Certificate Holder shall adhere to NYSDEC's then effective "New York State Standards and Specifications for Erosion and Sediment Control," also known as the "Blue Book" ("NYSSESC") unless alternative measures are identified in the Stormwater Pollution Prevention Plan ("SWPPP") included in the approved EM&CP. In addition to the general requirements contained in the Blue Book, the SWPPP shall include the following protocols:

- To minimize the risk of introducing invasive species, the use of hay bales is strictly prohibited.
- All erosion control fabric or netting must be 100% biodegradable (photodegradable is not sufficient) natural product, excluding geotextiles used for road construction and temporary erosion control devices such as silt fence and silt sock.

23. The following stormwater, erosion, and sediment conditions shall be applicable to the Project:

(a) The Certificate Holder shall include the SWPPP and NYSDEC's letter of acknowledgement under the SPDES General Permit in the EM&CP. The Certificate Holder shall develop the EM&CP in accordance with the SWPPP requirements in NYSDEC's then current SPDES General Permit for Stormwater Discharges from Construction Activity.

(b) All erosion and sediment control practices shall be installed prior to any grading or filling operations, or other ground disturbance, to the extent practicable. They shall remain in place until construction is completed and the area is completely restored to pre-existing conditions.

(c) In areas where soil disturbance activity has temporarily or permanently ceased, the application of soil stabilization measures shall be initiated by the end of the next day and completed in accordance with the NYSSESC and prior to a significant rain event.

(d) Specific structural controls to divert stormwater runoff, and the location of culverts shall be shown on the EM&CP Plan and Profile drawings.

(e) Special conditions and erosion and sedimentation controls shall be prescribed on the EM&CP Plan and Profile drawings by work location.

24. The Certificate Conditions shall be incorporated into the EM&CP. The EM&CP shall be prepared in accordance with the Specifications for Development of EM&CP attached as Appendix E to the Joint Proposal ("EM&CP Specifications") and shall not be inconsistent with the Certificate Holder's LRRMP except where a conflict with a provision of the Certificate would otherwise be created.

25. Upon completion of the Project, the Certificate Holder shall conduct routine vegetation maintenance in accordance with its LRRMP. Applicable provisions of the Certificate, the approved EM&CP, and orders approving the EM&CP shall be accommodated in any design, construction, ownership, or maintenance contracts associated with the Project.

26. The Certificate Holder, in preparing the EM&CP, shall consult with each transportation department or agency normally having jurisdiction over any roads that will be crossed by the Project or used for direct access to the Project ROW. If the access road takes direct access from, or lies within the limits of, such roads, such Certificate Holder shall notify each relevant transportation department or agency of the approximate date when use of the access road will begin.

27. Before the preparation of the EM&CP, the Certificate Holder shall contact NYSDEC, NYS Natural Heritage Program and United States Fish and Wildlife Service ("USFWS") to check for any updates or changes of known rare, threatened or endangered ("T&E") species or habitat or Significant Natural Communities in the Project area and include the response in the EM&CP.

28. The Certificate Holder shall provide, as a part of the EM&CP:

(a) A final design plan that conforms with the approved Project design, applicable federal, state and local requirements, including, but not limited to, applicable regulations promulgated by NYSDEC, the New York State Office of Parks, Recreation & Historic Preservation ("OPRHP"), the New York State Department of Agriculture & Markets ("AGM"), the Commission, the Bureau of Alcohol, Tobacco and Firearms, the Occupational Safety and Health Administration, the NYS Department of Labor, and local government chemical and waste-storage use and handling regulations.

(b) A discussion of the status of efforts by the Certificate Holder to obtain permits necessary for construction of the Project from Federal agencies (such as USACE) and State agencies with federally delegated authority.

(c) Provision for submission by a certification of a professional engineer licensed by State of New York stating that, if constructed in accordance with the final design plans, the Transmission Facility will comply with the applicable electric and magnetic field ("EMF") standards, established by the Commission in Opinion No. 78-13 (issued on June 19, 1978) and the Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities (issued on September 11, 1990).

(d) A copy of the approved Application for Occupancy of Norfolk Southern Corporation ("N&S") property including all design and construction plans and a copy of all specifications and engineering computations for the proposed occupancy.

29. Deviations from the certified centerline, design height, location, number of structures, and structure types as described in Exhibit E-1 (revised) shall be allowed for appropriate environmental or engineering reasons, except where a conflict with a provision of the Certificate would be created. The Certificate Holder proposing such deviation shall include in the EM&CP an explanation for the proposed deviation and supporting documentation.

30. The Certificate Holder shall not begin construction (except for surveying, soils testing, and such other related activities as are necessary for preparation of the final design plans), until the Commission has approved the EM&CP for the site preparation or construction activity proposed to be undertaken. Construction means the beginning of tree clearing, site clearing, ground disturbance, site preparation, and grading activities related to installation of the Project. Commencement of Construction does not include soils or groundwater testing, surveying (such as geotechnical drilling) and similar pre-construction activities to determine the adequacy of the site for construction and the preparation of filings pursuant to this Certificate. Commencement of Construction also does not include other activities, such as limited staging and limited tree cutting that are required to perform such pre-construction activities.

31. The Certificate Holder shall file the proposed EM&CP with the Commission and provide two hard copies and one electronic copy to the staff of the NYSDEC Central Office in Albany; one electronic copy and one hard copy to the Region 8 office of the NYSDEC; one electronic copy to the staff of AGM; one electronic copy on the Region 6 office of the NYSDOT; one electronic copy to any other New York State agency (and its relevant regional offices) that requests the document; and one electronic copy to every party to this proceeding. Service upon State agencies shall be performed at or prior to the time of filing with the Secretary. The Certificate Holder also shall place one hard copy and one electronic copy for inspection by the public in at least one public library or other convenient location in each municipality in which construction will take place.

32. Contemporaneously with filing and serving the proposed EM&CP, the Certificate Holder shall disseminate, in the manner specified below, a written notice, in language reasonably understandable to the average person, that the proposed EM&CP has been filed (the "EM&CP Filing Notice").

(a) The Certificate Holder shall serve a copy of the EM&CP Filing Notice on all persons required to be served with the Application by statute or regulation, and on all persons from whom property rights are required.

(b) The Certificate Holder shall include a copy of the EM&CP Filing Notice in the proposed EM&CP.

(c) The Certificate Holder shall publish a copy of the EM&CP Filing Notice in a newspaper or newspapers of general circulation in the vicinity of the Project.

33. The EM&CP Filing Notice required for the proposed EM&CP shall contain, at a minimum, the following:

(a) a statement that the proposed EM&CP has been filed;

(b) a general description of the certified Project, the need for the Project, and the proposed EM&CP;

(c) a listing of the locations and the website URL(s) where the proposed EM&CP is available for public inspection;

(d) a statement that any person desiring additional information about a specific geographical location or specific subject may request it from the Certificate Holder;

(e) the name, address, toll-free telephone number, and telephone number of an appropriate representative of the Certificate Holder;

(f) the e-mail address and postal address of the Secretary; and

(g) a statement that any person may be heard by the Commission on any matter or objection regarding the proposed EM&CP by filing written comments with the Secretary and the Certificate Holder within 21 days of the date the proposed EM&CP was filed with the Commission, or within 45 days of the date of the newspaper publication of a copy of the EM&CP Filing Notice, whichever is later. Comments on subsequent material modifications to the EM&CP, made in response to the aforementioned written comments, shall be permitted within 15 days of service by electronic means of said modifications.

34. A certificate of service indicating upon whom all copies of the EM&CP Filing Notice were served shall be filed by the Certificate Holder with the Secretary within three (3) business days after the time the proposed EM&CP is filed, and shall be a condition precedent to approval of the proposed EM&CP. When available, proof of newspaper (including at least one free newspaper if available) publication of a copy of the EM&CP Filing Notice, including a copy of such notice, shall be filed with the Secretary.

35. After the EM&CP has been approved by the Commission:

(a) If the Certificate Holder desires to make any changes to the approved EM&CP, the

Certificate Holder shall report such proposed changes to DPS Staff. DPS Staff will refer any proposed changes that will not result in any substantial increase in adverse environmental impacts or are not directly related to any contested issues decided by the Administrative Law Judge or the Commission during the proceeding to the Director of the Office of Electric, Gas, and Water or their designee for approval. DPS Staff will refer all other proposed changes to the Commission for approval.

(b) Upon being advised that DPS Staff will refer a proposed change to the Commission, the Certificate Holder shall notify all parties to the proceeding, as well as property owners and residents on property affected by the proposed change. The notice shall: (1) describe the original conditions and the requested change; (2) state that documents supporting the request are available for inspection at specified locations; and (3) state that persons may comment by writing or calling (followed by written confirmation) to the Commission within twenty-one (21) days of the notification date. Any delay in receipt of written confirmation will not delay Commission action on the proposed change.

(c) The Certificate Holder shall not execute any proposed change until the Certificate Holder has received oral or written approval, except in emergency situations threatening personal injury, property, or severe adverse environmental impact. Oral approval by DPS staff will be followed by a written approval within ten business days of receipt of the written request by the Applicant.

F. <u>Notices and Public Complaints</u>

36.

(a) Until notice of Project completion is provided to the Secretary as provided in Certificate Condition 42, the Certificate Holder shall comply with the Complaint Management Plan adopted with and made a part of this Order.

(b) The Certificate Holder shall report to the DPS Environmental Certification and Compliance Section Compliance Staff every complaint it receives that cannot be resolved within ten (10) business days after receipt of the complaint.

37.

(a) No less than two (2) weeks before commencing Project construction activities, the Certificate Holder shall notify the public of the anticipated date that construction work conducted by its contractors will commence, as follows:

i. provide notice to local officials and emergency personnel along the entire Project route;

ii. provide notice to local media for dissemination;

iii. provide notice for display in public places (such as general stores, post offices, community centers, and conspicuous community bulletin boards); and

iv. Provide notice to persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner).

(b) The Certificate Holder shall write the notice or notices under this paragraph in language reasonably understandable to the average person and shall ensure that the notice or notices contain:

i. a map of the Project;

ii. a brief description of the Project;

iii. the web addresses where Project information can be obtained;

iv. the anticipated date for start of site preparation;

v. to the best of its knowledge, the anticipated date when work at the Bennett Substation will start;

vi. the name, mailing address, local or toll-free telephone number, and email address of an employee or agent of the Certificate Holder who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project; and,

vii. a statement that the Project is under the jurisdiction of the New York State Public Service Commission, which is responsible for enforcing compliance with environmental and construction conditions, and which may be contacted at an address, email, and telephone number to be provided in the notice.

(c) Upon distribution, a copy of the form of the notice or notices under this paragraph shall be submitted to the Secretary.

(d) The Certificate Holder shall notify persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner), of the planned transmission line construction activities, and any substation construction activities outside the existing fence line of the Bennett Substation, and schedule affecting their residences at least seven (7) days, but no more than thirty (30) days, prior to the commencement of such construction in these areas. The Certificate Holder shall give notice by direct mail and may affix such notice to the doors of residences. After such notices are given, and prior to the commencement of such construction, the Certificate Holder shall provide a copy of the generic form of such notice to the Secretary.

38. The Certificate Holder shall provide all Project contractors ("Contractors") with complete copies of the Certificate Order, the approved EM&CP, the order(s) approving the EM&CP, updated construction drawings, any site-specific plans, NYSDEC's then-current State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharge from Construction Activity ("SPDES General Permit"), any permit issued pursuant to Section 404 of the Federal Clean Water Act, and the Section 401 Water Quality

Certification. To the extent that the listed documents are available before contracts for construction services are executed, such copies shall be provided by the Certificate Holder to its Contractors prior to the execution of such contracts.

39. Certificate Holder shall notify its Contractors that the Commission may seek to recover penalties for any violation of the Certificate and other orders issued in this proceeding, not only from such Certificate Holder, but also from its Contractors and that Contractors also may be liable for other fines, penalties, and environmental damage.

40. The Certificate Holder shall inform the Secretary in writing at least five (5) days before commencing construction of the Project.

41. Each month after providing notice specified in the preceding paragraph, the Certificate Holder shall provide DPS Staff, AGM, and NYSDEC with monthly status reports transmitted by electronic mail summarizing construction and indicating construction activities and locations scheduled for the next month. Updates will be provided on a weekly basis as necessary, transmitted by electronic mail to account for material changes to the construction plan, i.e., changes that would result in construction activities taking place more than three (3) miles away from the originally specified location on a given date.

42. Within ten (10) days after the Project is in service, the Certificate Holder shall notify the Secretary in writing of that fact.

43. The Certificate Holder, within ten (10) days of the completion of final restoration, shall notify the Secretary that all such restoration has been completed in compliance with this Certificate Order and the Order(s) approving the EM&CP.

G. ROW Construction, Operation, Maintenance and Restoration

44. The Certificate shall not commence construction on any portion of the project until receipt of a Notice to Proceed from the Director of the Office of Electric, Gas, and Water or their designee, which shall be provided upon the Certificate Holder's compliance with the relevant pre-construction conditions.

(a) At least two (2) weeks prior to the start of construction, the Certificate Holder's project manager shall hold a preconstruction meeting to which it shall invite the town and county highway superintendents, NYSEG, DPS Staff, AGM, NYSDOT, NYSDEC and the environmental and agricultural monitors. An agenda, the location, and an attendee list shall be agreed upon between DPS Staff and the Certificate Holder. Notification to the invitees of the meeting shall be given at least ten (10) days prior to the meeting date.

(b) The Certificate Holder shall supply draft minutes from this meeting to all attendees and invitees, the attendees may offer corrections or comments, and thereafter the Certificate Holder shall issue the finalized meeting minutes to all attendees and invitees.

(c) If, for any reason, the Contractors cannot finish the construction of the Project, and one

or more new construction contractors are needed, the Certificate Holder shall hold another preconstruction meeting with the same format as outlined above.

45. The Certificate Holder shall confine construction and subsequent maintenance to the certified ROW and approved additional work areas as detailed in the EM&CP.

46. At least two (2) weeks before Project construction begins, the Certificate Holder shall cause both edges of the Project ROW to be delineated in areas of the ROW in which clearing will be undertaken, and any known danger trees to be removed in such area marked for review and acceptance by DPS Staff. Also, the Certificate Holder shall stake and/or flag all on- or off-ROW access roads and other areas needed for such construction (such as structure work areas; laydown and storage areas; and wetland, T&E species, and archaeological resource areas) and shall notify DPS Staff when the above-described field stake-out is complete in such area.

47. The Certificate Holder shall schedule construction activities on the Project to occur between the hours of 7:00 a.m. through 7:00 p.m. Monday through Saturday. If, due to safety or continuous operation requirements, such construction activities are required to occur on a Sunday or after 7:00 p.m., the Certificate Holder shall seek concurrence or permission for extended work hours at least 24 hours in advance, to the extent practicable.

48. Project Construction shall not commence until the real property rights (not including utility or highway crossing permits or other administerial permits or approvals) necessary to construct and operate are obtained for the entire Project.

(a) Prior to construction on N&S property, CWE shall file, as an Information Report, an executed agreement with N&S and a written notice indicating permission to proceed with work from the designated construction agency of N&S.

49. In connection with ROW vegetation clearing, the Certificate Holder, with respect to its Project Components, shall:

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

(b) note on the EM&CP drawings the clearing and disposal techniques;

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

(d) utilize the wood resource generated by the clearing in accordance with sound environmental techniques to be described in the EM&CP. This shall be accomplished through coordination with wood processing businesses and through cooperation with landowners.

(e) Leave stumps in place within 50 feet of streams unless construction of an access road or work pad necessitates removal. Trees shall not be felled into any stream or onto the immediate stream bank; and

(f) Limit clearing of natural vegetation to that material which poses a hazard or hindrance to the construction activity or operation of the line. In stream snags which provide shelter for fish shall not be disturbed unless they cause serious constructions, scouring or erosion.

50. Removal of the Merchantable Logs (logs over six (6) inches in diameter at the small end and eight (8) feet or longer) resulting from clearing the Project ROW shall be handled in accordance with the requirements of easement agreements between the Certificate Holder and landowners and at a minimum will be moved to off-ROW location(s). The Certificate Holder will provide notice of the location(s) to be included in the EM&CP.

51. The Certificate Holder shall not construct, or allow any contractor to construct, any new access road or improve any existing access road, unless such road is described in the EM&CP. Should the Certificate Holder need additional off-ROW access, it shall follow the procedures recited in Certificate Condition 35.

52. Mid-span splices should not be located in wetlands, at road crossings, or in areas of limited accessibility. If mid-span splices are proposed at these locations (above wetlands, at road crossings, or in areas of limited accessibility) due to particular encumbrances, then explanation and justification shall be provided in compliance filings for each proposed location.

53. The Certificate Holder shall restore disturbed areas, ruts, and rills to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations unless the EM&CP specifies otherwise. Disturbed pavement, curbs, and sidewalks shall be restored to their original preconstruction condition or improved.

54. The Certificate Holder shall be responsible for checking all culverts and assuring that they are not crushed or blocked during construction and restoration of the Project, and, if a culvert is blocked or crushed, or otherwise damaged, such the Certificate Holder shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage and aquatic connectivity. Culvert repairs or replacements shall follow specifications in the EM&CP.

55. The Certificate Holders shall, upon completion of the Project:

(a) conduct an assessment of the need for landscape improvements to return areas in which construction activities were undertaken to their pre-existing condition, including vegetation planting, earthwork or installed features to screen or landscape the Project with respect to road crossings, residential areas, and substations;

(b) prepare plans for any visual mitigation found necessary, and, in connection therewith, removal, rearrangement and supplementation of existing landscape improvements or plantings should be considered, as appropriate;

(c) consult with DPS Staff on the content and execution of its assessment, resultant landscaping plan specifications and materials list; details shall include measures for third party or wildlife damage to any landscape and vegetation plantings; and,

(d) present draft assessments and plans to DPS Staff for review, and file a final plan with the Secretary within one year after the date the Project is placed in service.

56. The Certificate Holder shall ensure that the EM&CP shall: (a) identify plans for tree protection; and (b) indicate on the drawings where tree protection measures will be applied (if any are known at the time of EM&CP preparation).

57. The Certificate Holder shall include plans in the EM&CP to prevent unauthorized access to and along the ROW.

58. Prior to restoration within a given area the Certificate Holder shall thoroughly clear the areas of the ROW and work areas where construction occurred of debris related to electric line construction or removal, such as nuts, bolts, spikes, wire, and pieces of steel. All construction debris (e.g., building materials, excess sediment, and work site refuse) generated by the Project shall be completely removed prior to completion of restoration of the entire Project, including wetlands, adjacent areas, waterbodies, floodplains and floodways. Construction debris shall be properly disposed of at a permitted waste disposal facility authorized to receive such material.

H. Herbicide Use During Construction

59. The Certificate Holder applying herbicides on the Project shall do so only under the direct supervision of a NYS Certified Applicator who shall own or be employed by a New York State-registered business. The supervising certified applicator shall be familiar with and understand the provisions of this Certificate and shall be present in the field to ensure that the Certificate Holder's application of herbicides complies with its LRMMP and the Certificate.

60. The Certificate Holder applying herbicides on the Project shall ensure that all herbicides it uses have valid registrations under applicable state and federal laws and regulations. If the Certificate Holder desires a change to the herbicides specified in the EM&CP for use during construction of the Project, including mix proportions, additives (with the exception of dyes), or method of application, the Certificate Holder shall submit the proposed change for approval pursuant to Certificate Condition 35 of this Certificate. No change inconsistent with the pesticide labeling shall be proposed.

61. The Certificate Holder applying herbicides on the Project shall apply such herbicides only in conformity with all label instructions and all applicable state and federal laws and regulations. It shall apply herbicides in compliance with their respective LRMMP and the Certificate. It shall ensure that its applicators reference maps which indicate treatment areas, and wetland and adjacent area boundaries, and threatened and endangered species habitat, prior to treating. It shall ensure that applications required in seasonally flooded freshwater wetlands are undertaken during a dry season.

62. The Certificate Holder shall comply with the currently effective NYSDEC Utility Rights-of Way (ROWs) - Vegetation Management general permit for Vegetation Maintenance for pesticide applications in State-regulated wetlands and the 100-foot adjacent areas associated

with those wetlands. The Certificate Holder applying herbicides on the Project shall ensure that, in doing so, it does not allow equipment wash water or excess herbicide to enter wetlands, streams or waterbodies.

I. Oversight and Supervision

63. The Certificate Holder shall designate a full-time Construction Supervisor and Construction Inspector for the Project. An Environmental Monitor, and/or designee, whose qualification shall satisfy those of a "Qualified Inspector" pursuant to the SPDES General Permit, shall be available at plan-of-the-day meetings and as needed but, at a minimum, shall be on-site when work occurs near wetlands and streams, rare, threatened, or endangered species habitat, and in agricultural fields. The Environmental Monitor and any designee shall have stop-work authority over all aspects of this Project. The supervisor shall be available during all phases of construction and restoration. Unless the Environmental Monitor also qualifies as an Agricultural Monitor, a separate Agricultural Monitor shall also be designated, who may be the same person designated Agricultural Monitor for the construction of the Article 10 wind farm. Consistent with the applicable Article 10 Certificate Condition, the designated Agricultural Monitor is authorized to work on the wind farm and the transmission line and need not be engaged on a full-time basis but with the understanding that there will be periods of time during construction and subsequent restoration where the Agricultural Monitor is required to be onsite full time. Environmental Monitor's authority shall include compliance with invasive species control measures.

64.

(a) The Environmental Monitor shall have stop work authority over all aspects of the Project.

(b) The Certificate Holder shall provide to DPS Staff, AGM, and NYSDEC the cell phone numbers of the Certificate Holder's Environmental Monitor and Construction Supervisor.

(c) The Certificate Holder shall ensure that its Environmental Monitor and Construction Supervisor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor such Certificate Holder's Contractor's compliance with the provisions of every Order issued in this proceeding and with applicable sections of the PSL, Environmental Conservation Law, Section 401 Water Quality Certification, and the EM&CP.

65. The Certificate Holder shall ensure that the names and qualifications of its Environmental Monitor and Construction Supervisor are submitted to DPS Staff for acceptance, not to be unreasonably withheld or delayed, at least two (2) weeks prior to the start of construction. The Certificate Holder shall ensure that its Environmental Monitor's qualifications satisfy those of a "Qualified Inspector" pursuant to the SPDES General Permit.

66. The Certificate Holder's employees, contractors and subcontractors assigned to the construction of the Project and inspection of such construction work shall be properly

trained in their respective responsibilities.

67. The authority granted in the Certificate and any subsequent order(s) in this proceeding is subject to the following conditions necessary to ensure compliance with such order(s):

(a) The Certificate Holder shall regard DPS Staff representatives (authorized pursuant to PSL §8) as the Commission's designated representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the Certificate or any other order in this proceeding, such DPS Staff representatives may issue a stop work order for that location or activity.

(b) A stop work order shall expire 24 hours after issued unless confirmed by a single Commissioner. DPS Staff shall give the Certificate Holder notice by electronic mail of any application to a Commissioner to have a stop work order confirmed. If a stop work order is confirmed, the Certificate Holder may seek reconsideration from the confirming Commissioner or the whole Commission. If the emergency prompting the issuance of a stop work order is resolved to the satisfaction of the Commissioner or the Commission, the stop work order will be lifted. If the emergency has not been satisfactorily resolved, the stop work order will remain in effect.

(c) Stop work authority will be exercised sparingly and with due regard to potential environmental impact, economic costs involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff representatives will consult (wherever practicable) with the Certificate Holder's representative(s) possessing comparable authority. Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Manager(s) and the Director of the Office of Electric, Gas, and Water or their designee. In the event that a DPS Staff representative issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. The issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of the DPS Staff representative during these discussions.

(d) If a DPS Staff representative discovers a specific activity that represents a significant environmental threat that is, or immediately may become, a violation of the Certificate or any other Order in this proceeding, the DPS Staff representative may–in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action–direct the field crews to stop the specific potentially harmful activity immediately. If responsible Certificate Holder personnel are not on site, the DPS Staff representative will immediately thereafter inform the Certificate Holder's Construction Inspector(s) and/or Environmental Monitor(s) of the action taken. The stop work order may be lifted by the DPS Staff Representative if the situation prompting its issuance is resolved.

(e) If the DPS Staff representative determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific measures, the DPS Staff representative may, in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action, direct the Certificate Holder or the relevant Contractors to implement the corrective measures identified in the approved EM&CP. The field crews shall comply with the DPS Staff representative's directive immediately. The DPS Staff representative will immediately thereafter inform that the Certificate Holder's Construction Inspector(s) and/or Environmental Monitor(s) of the action taken.

(f) DPS Staff will promptly notify the NYSDEC Region 8 representative of any activity that involves a violation of the Certificate within NYSDEC's jurisdictional areas (e.g., a State-regulated wetland or its adjacent area, a protected stream or other waterbody, or a threatened or endangered species).

68. The Certificate Holder shall organize and conduct site-compliance inspections for DPS Staff as needed during construction. The Certificate Holder shall schedule and make its personnel available for such inspections no less frequently than once per month during the site preparation, construction, and restoration phases, but will not be required to halt construction while awaiting to conduct previously scheduled inspections. Inspections shall conclude upon the final sign-off of the SWPPP by the SWPPP inspector.

(a) The monthly inspection shall include a review of the status of compliance with all conditions contained in the Certificate and any other Order issued in this proceeding, other legal requirements and commitments, as well as a field review of the Project site, if necessary. The inspection also may include:

i. Review of all complaints received, and their proposed or actual resolutions;

ii. Review of any significant comments, concerns, or suggestions made by the public, local governments, or other agencies and indicate how the Certificate Holder has responded to the public, local governments, or other agencies;

iii. Review of the status of the Project in relation to the overall schedule established prior to the commencement of construction; and

iv. Other items the Certificate Holder or DPS Staff considers appropriate.

(b) The Certificate Holder shall provide a written record of the results of the inspection, including resolution of issues and additional measures to be taken, to agencies involved in the inspection audit.

69. The Certificate Holder shall ensure that the required safety rules and regulations are communicated to all persons at each Project jobsite in a documented tailboard meeting prior to entry onto the site of work. The Certificate Holder's Construction Supervisor is responsible for interpreting these rules for their non-English speaking and reading-impaired employees. Once a person participating in a tailboard safety briefing has received the Safety Awareness training session, he or she is authorized to visit that site for which the training was held. A separate training session is required for each jobsite.

70. The Certificate Holder may require all persons at each Project jobsite to supply their own personal protective equipment for any tours of construction sites. This shall include a properly fitted, currently valid, hardhat, safety glasses with side shields, and steel or ceramic-toed boots at any time while on site, unless the visitor is in a vehicle or in a construction trailer.

J. Cultural Resources

71. The Certificate Holder shall ensure that no construction site preparation, clearing, or other disturbance is undertaken in previously undisturbed areas where archeological surveys have not been completed until such time as the appropriate authorities, including OPRHP and DPS Staff, have reviewed the results of any additional historic properties and archeological surveys that are required.

72. The Certificate Holder shall indicate on final EM&CP or equivalent documents, measures for avoidance of archeological sites identified within the Project ROW, if applicable. The mapped locations of all identified archeological sites within the Project ROW shall be identified as "Environmentally Sensitive Areas" or similar on the final construction drawings and archeological sites will be marked in the field to restrict access.

73. The Certificate Holder shall ensure that, should archeological materials be encountered during construction, the Certificate Holder shall stabilize the area and cease all ground-disturbing activities in the immediate vicinity (within 100 feet) of the find and protect the find from further damage. The restricted areas would extend from the maximum discernable limit of the archaeological materials. Within twenty-four (24) hours of such discovery, Certificate Holder shall notify and consult with DPS Staff and OPRHP Field Services Bureau to determine the best course of action. No construction activities shall be permitted in the vicinity (within 100 feet) of the find until such time as the significance of the resource has been evaluated and the need for and scope of impact mitigation has been determined. The only earth-moving activities that may occur within the restricted areas prior to notifications are those necessary for immediate stabilization of the exposed archaeological materials. The Certificate Holder shall flag, fence off, or securely cover the archaeological discovery location and take reasonable measures to ensure site security.

74. The Certificate Holder shall ensure that, should human remains or evidence of human burials be encountered during the conduct of archeological data recovery fieldwork or during construction, all work in the vicinity (within 100 feet) of the find is halted immediately and the remains are protected from further disturbance. Within twenty-four (24) hours of any such discovery, the Certificate Holder shall notify and consult with DPS Staff and OPRHP Field Services Bureau. The Certificate Holder shall ensure that treatment

of human remains is done in accordance with the OPRHP's Human Remains Discovery Protocol, and that all archaeological or remains-related encounters and their handling is reported in the status reports summarizing construction activities and reviewed in the site-compliance audit inspections.

75. The Certificate Holder shall ensure that the creation of adverse impacts on historic structures in the Project vicinity is avoided by implementing Project location, design, and vegetation management measures, specified in the EM&CP.

K. Terrestrial and Wildlife Resources

76. In order to identify T&E animal or plant species potentially located in the Project area, the Certificate Holder shall refer to 6 NYCRR Parts 182 and 193. Prior to the commencement of construction, the Certificate Holder shall provide all personnel with information on any T&E animal or plant species potentially located in the Project area and indicate measures to minimize risks to the species during construction.

77. In order to ensure that the Project complies with the requirements of Article 11 and Part 182 for northern long-eared bats (NLEB):

(a) No tree clearing activities shall occur at any time within one hundred fifty (150) feet of any known NLEB roosts or one quarter (0.25) mile of any NLEB hibernacula. All tree clearing activities occurring greater than these distances but within one and a half (1.5) miles of a known NLEB maternity roost site or five (5) miles of a NLEB hibernaculum site shall be conducted between November 1 and March 31.

(b) If the conditions specified in 78(c) cannot be met, the Certificate Holder shall consult with NYSDEC and, if applicable, USFWS, to determine what, if any, permits and/or additional authorizations are required.

(c) From April 1 through October 31, the Certificate Holder shall leave uncut all snag and cavity trees as defined under Department of Environmental Conservation (DEC) Program Policy ONRDLF-2 Retention on State Forests, located within occupied NLEB habitat unless their removal is necessary for the protection of human life and property. When necessary, snag and cavity trees may be removed after being cleared by the Environmental Monitor, pursuant to Condition 66(a), who shall conduct a survey for bats exiting the tree. This survey shall begin one half hour (1/2) hour before sunset and continue until at least one (1) hour after sunset or until it is otherwise too dark to see emerging bats. Unoccupied snag and cavity trees in the approved clearing areas shall be removed within 24-hours of the exit-count survey.

(d) If at any time during the life of the Project any NLEB maternity roost trees are discovered, NYSDEC will be notified within twenty-four (24) hours of discovery, and an area of at least five hundred (500) feet in radius around the roost tree(s) shall be marked. From April 1 through October 31 the area shall be avoided until notice to continue construction, ground clearing, grading, maintenance or restoration activities, as applicable, at that site is granted by DPS after consultation with NYSDEC.

78. If any T&E animal or plant species, other than those identified in Condition 80, for which Net Conservation Benefit Plans will have been approved as part of the EM&CP process, are incidentally observed on or from the Project ROW, access roads, laydown yards, and any other areas where Project activities authorized in this Certificate are conducted, the Certificate Holder shall:

(a) Notify DPS Staff and NYSDEC within 24 hours; and

(b) To protect the identified species or its potentially occupied habitat from immediate harm, secure the immediate area, to the extent the Certificate Holder has property rights, and cease construction in that area until DPS Staff, after consultation with NYSDEC, authorizes recommencement of activities

79. Prior to the start of construction, the Certificate Holder shall update the list of protected plant species based on the Natural Heritage Program inventory and have a qualified biologist confirm the locations of protected native plants listed in 6 NYCRR 193.3 previously found to occur within the Project ROW and shall install construction fencing around the relevant areas to restrict access during construction.

80. The Certificate Holder, for the protection of State- and federally listed species, shall implement the following measures:

(a) At least two (2) weeks prior to construction activities, the Certificate Holder shall conduct a visual inspection in the area in which construction will take place to determine if any active bald eagle nests are present.

(b) During construction and maintenance activities, if any bald eagle nest is discovered within 0.25-miles of the work area, the Certificate Holder shall notify NYSDEC and DPS Staff within twenty-four (24) hours of discovery and the nest shall not be approached. The 0.25-mile environmentally sensitive area shall be marked, where the Certificate Holder has property rights to allow such marking, and this area shall be avoided to the maximum extent practicable until DPS Staff, after consultation with NYSDEC, authorizes activities in the buffer area. In the presence of a visual barrier (i.e. tree line, topography) that obstructs the view from the nest and shields it from work activities, the setback requirement may be reduced to 660 feet.

(c) Notify NYSDEC and DPS Staff within twenty-four (24) hours of the discovery of an active nest or roost of any federally or State-listed threatened or endangered bird species, or if any T&E species are observed exhibiting breeding or roosting behavior within an active construction, ground clearing, grading or maintenance activity area. The Certificate Holder shall record the location of the nest or roost and shall post and avoid to the maximum extent practicable an area of five hundred (500) feet, or the maximum accessible distance, whichever is greater, in radius from the nest or roost until notice to continue construction at that site is granted by DPS Staff, after consultation with NYSDEC.

(d) Maintain a record of all observations of State T&E species during construction, operation, and maintenance of the Project. All reports of T&E species shall include the

following information: species; number of individuals; age and sex of individuals (if known); observation date(s) and time(s); GPS coordinates (as property rights allow) of each individual observed (if a GPS is not available, the report should include the nearest pole number and cross road location); behavior(s) observed; identification and contact number of the observer(s); and the nature of and distance to any Project construction, maintenance, or restoration activity.

(e) A final "Net Conservation Benefit Plan" (NCBP) that meets the requirements of Part 182, to be developed in consultation with and accepted by DEC which shall be part of the EM&CP to mitigate potential impacts to Northern harrier habitat. Such acceptance may not be unreasonably withheld or delayed, and consultations must take place in a timely manner. The NCBP may be combined with grassland bird NCBP associated with the Canisteo Wind Farm (Case 16-F-0205).

81. Except as otherwise specified in Condition 80, if it is determined to be necessary to take occupied habitat or individuals of a species listed in Part 182, the Certificate Holder will develop an NCBP in consultation with and accepted by NYSDEC and DPS that meets the requirements of Part 182.

L. Water Resources

82. The Certificate Holder shall ensure that adverse effects to streams, waterbodies, wetlands, and the one-hundred-(100) foot adjacent area associated with any State-regulated wetland ("adjacent area") during the construction, operation, and maintenance activities are avoided to the extent practicable, and if not fully avoidable, they are minimized. The Certificate Holder shall ensure that the following provisions to protect streams, waterbodies, and wetlands are followed, as specified in the approved EM&CP:

(a) Wetland locations and adjacent areas located within the ROW or crossed by the ROW or any off-ROW access road constructed, improved, or maintained for the Project, shall be delineated in the field prior to construction and indicated on the approved EM&CP drawings.

(b) Any activities which may affect wetlands shall be designed and controlled to avoid or minimize adverse impacts, giving due consideration to the environmental features and functions of the wetlands.

(c) If construction through wetlands cannot be avoided it shall be done with temporary mats and shall be restricted to access roads and work areas set forth on the EM&CP drawings; however, if geotextile/gravel access roads are proposed, such proposal shall be justified in the EM&CP.

(d) Equipment or machinery shall not be washed in any stream, waterbody, wetland or adjacent area, and runoff resulting from washing operations shall not be permitted to directly enter any stream, waterbody, or wetland.

(e) Any excess excavated material resulting from structure installation that is to be removed from any stream, waterbody, or wetland or adjacent areas shall not be stored

inside wetlands or adjacent areas. Excavated material shall be disposed of in approved upland locations.

(f) In wetlands, slash that is cut may be left in place (drop and lop) or removed from the wetland. No slash shall be collected and permanently piled in the wetland.

(g) Construction vehicle access across streams and waterbodies shall be limited to existing bridges and culverts and to existing crossings or those installed in accordance with the provisions set forth in the approved EM&CP.

(h) During periods of work activity in streams, stream or waterbody flow immediately downstream of the worksite shall equal such flow immediately upstream of the worksite.

(i) There shall be no increase in turbidity downstream of the construction activity that will cause a visible contrast to natural conditions.

(j) Unless otherwise specified in the approved EM&CP, work in streams, when necessary, shall be prohibited between March 1 and July 15 for warm water fisheries, and October 1 and May 31 for cold water fisheries habitat. The Certificate Holder shall consult with the DEC Region 8 Natural Resources Supervisor to obtain a last of streams in each category.

(k) Fuel tanks or other chemical storage tanks shall be appropriately contained and located a minimum of 300 feet away from any wetland or waterbody. If the minimum setback cannot be achieved, the EM&CP shall provide justification and demonstrate that impacts to wetlands and waterbodies have been avoided to the maximum extent practicable.

(l) All mobile equipment, excluding dewatering pumps, must be fueled in a location at least 100 feet from wetlands and waterbodies unless moving the equipment will cause additional environmental impact. Dewatering pumps operated closer than 100 feet from the stream bank, wetland, or waterbody, must be within a secondary containment large enough to hold the pump and accommodate refueling. Water from dewatering operations shall be pumped into, at a minimum, a filter bag and if necessary an additional temporary straw bale containment to settle suspended silt material prior to discharge. Direct discharge to wetlands, streams, and waterbodies shall be avoided.

(m) All work in streams shall be conducted in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area, unless otherwise specified in the approved EM&CP.

(n) To the maximum extent practicable, bridges shall be installed wherever a new permanent stream crossing is required. The bridge shall span the bed and banks of the stream. If a bridge is not practicable, the approved EM&CP shall provide justification for a non-bridge crossing and the permanent culvert shall be designed in accordance with the approved EM&CP.

(o) Disturbed streams shall be restored to equal depth, gradient, length, and character as the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. All disturbed stream banks shall be mulched within two (2) days of final grading, stabilized with 100% natural/biodegradable fiber matting, and seeded with an appropriate riparian seed mix specified in the approved EM&CP. In any areas where vegetation has been uprooted or grubbed on stream banks, the vegetation shall be replaced with ROW compatible native plantings as site conditions and facility design allow, and as appropriate for consistency with existing land uses, excluding access roads and areas needed for operation and maintenance of the facility.

(p) A site-specific Stream Crossing Plan shall be developed for each new permanent stream crossing (i.e. permanent bridge or culvert) in accordance with Specifications in Appendix J of the Joint Proposal. All structures must be able to safely pass the 2% storm event and be capable of withstanding any higher flow intervals likely to be experienced within a specific waterbody without causing damage to the stream bed or banks. Culverts shall be a minimum width of 1.25 times the width of the stream bed and embedded using native material to a minimum of 20% of the vertical rise on both the inlet and outlet ends of the culvert. Bridges or culverts may not be dragged through the stream and must be suitably anchored to prevent downstream transport during a flood. Fill may not be placed within the stream channel below bankfull elevation and placement of abutments or fill is authorized only above and outside bankfull boundaries. Geotextile fabric must be placed below and extending on the bank and suitable side rails build into the bridges to prevent sediment from entering the waterbody. The permanent stream crossing shall facilitate downstream and upstream passage of aquatic organisms.

(q) Any in-stream work or restoration shall not result in an impediment to passage of aquatic organisms.

(r) Immediately upon completion of grading, and as consistent with existing land uses, the area shall be seeded with a seed mix of native plants specified in the approved EM&CP that is appropriate for wetlands and the 100-foot adjacent area. Overall vegetative cover in restored areas shall be monitored for a minimum of five (5) years or until an 80% cover of plants with the appropriate wetland indicator status has been reestablished over all portions of the restored area. Notification shall be provided to NYSDEC and DPS Staff once 80% cover of plants with the appropriate indicator status has been achieved.

(s) If 80% cover of plants with the appropriate wetland indicator status has not been achieved at the end of the second year of monitoring, a Wetland Plantain Remedial Plan (WPRP) shall be prepared. The WPRP shall evaluate the reasons for the results, including an analysis of poor survival; corrective actions to ensure successful restoration; and a schedule for conducting remedial work. Once approved by NYSDEC and DPS Staff, the WPRP shall be implemented according to the approved schedule.

83. An accepted wetland mitigation plan shall be provided in the EM&CP to mitigate for clearing of forested wetland habitat and functions and other adverse wetland impacts

resulting from permanent structures in wetlands and damage to wetland vegetation from roadways. Mitigation for clearing forested wetlands shall be at a ratio of at least 2 acres for 1 acre cleared. The Certificate Holder shall work with NYSDEC and DPS Staff to develop any such Wetland Mitigation Plan, following NYSDEC's wetland mitigation guidelines, before the proposed EM&CP is filed.

M. Agricultural Resources

84. A separate Agricultural Monitor shall also be designated, who may be the same person designated Agricultural Monitor for the construction of the Article 10 wind farm. Consistent with the applicable Article 10 Certificate Condition, the designated Agricultural Monitor is authorized to work on the wind farm and transmission line, need not be engaged on a full-time basis but with the understanding that there will be periods of time during construction and subsequent restoration where the Agricultural Monitor is required to be onsite full-time. The Agricultural Monitor shall be available to provide site- specific agricultural information as necessary for EM&CP development through field review as well as to have direct contact with affected farm operators, County Soil and Water Conservation Districts, and the Department of Agriculture & Markets (AGM). The Agricultural Monitor shall maintain regular contact with the Environmental Monitor or the Construction Inspector throughout the construction phase. The Agricultural Monitor shall maintain regular contact with the affected farmers and County Soil and Water Conservation Districts concerning farm resources and management matters pertinent to the agricultural operations and the site–specific implementation of the approved EM&CP.

85. The Certificate Holder shall identify Black cherry trees located on the Project ROW near active livestock use areas during development of the EM&CP. During the clearing phase, such vegetation shall be disposed of in a manner which prevents access by livestock.

86. In agricultural areas, logs, stumps, brush, or chips shall not be piled or buried in active agricultural fields or improved pasture.

87. The Certificate Holder shall design the Project to the extent possible, to avoid or limit the placement of structures on crop fields or on other active agricultural land where the structures may significantly interfere with normal agricultural operations or activities. Where the location of a structure on such agricultural land is unavoidable, such Certificate Holder shall attempt to site the structure in a location that minimizes impact to normal farming operations.

88. The Certificate Holder shall ensure that, during preparation of the EM&CP, and in accordance with the EM&CP Specifications, a detailed drainage line repair procedure shall be developed, in consultation with AGM or the local Soil and Water Conservation District, for the repair of crushed/severed clay tile and plastic drain lines. Drawings showing the generic technique to be implemented for drain line repairs shall be provided by such Certificate Holder. All new plastic drain tubing shall meet or exceed the AASHTO M252 specifications. The plan for the replacement of functional stone drainage systems severed during construction shall be prepared during the restoration phase, in consultation with

AGM or the local Soil and Water Conservation Districts.

89. The Certificate Holder shall ensure that, where construction entrances are required from public roadways to the Project ROW in agricultural fields, an underlayment of durable, geotextile fabric is placed over the exposed subsoil surface prior to the use of temporary gravel access fill material. In locations where underground utilities are located within 10 feet of the shoulder of the roadway, the Certificate Holder may elect, in order to minimize disturbance and protect the underground utilities, to place the geotextile fabric directly over the surface without stripping topsoil. In locations where underground utilities are located 10 feet or more from the shoulder of the roadway, but still within the limits of the construction entrance, the Certificate Holder may elect to mat over the underground utilities instead of placing geotextile fabric and gravel access fill material. Complete removal of the construction entrance upon completion of the Project and restoration of the affected site is required prior to topsoil replacement, except where retention of the construction entrance would be more conducive to the existing land use than removal.

90. The Certificate Holder shall ensure that segments of farm roads that need improvement in order to be utilized for access are improved in consultation with the farm operator and AGM prior to use. Such improvements may include the installation of geotextile fabric and crushed stone.

91. The Certificate Holder shall ensure that farm drainage features, fences, and gates affected by construction are rebuilt to like new condition upon completion of construction, unless otherwise requested by the landowner, and the base of all new posts are secured to a reasonable depth below the surface to prevent frost heave.

92. The Certificate Holder shall ensure that where mats are installed, the mats are layered where necessary to provide a level access surface, and once access is no longer required, the mats are removed and all compacted areas shall be decompacted using deep tillage equipment in accordance with Condition 95.

93. The Certificate Holder shall ensure that: where the installation of mats is not practical, topsoil is removed, including all of the "A" horizon down to the beginning of the subsoil "B" horizon, generally not to exceed a maximum of twelve (12) inches (topsoil removal up to a depth of sixteen (16) inches may be required in specially-designated soils encountered along the Project route and identified in the EM&CP); all topsoil is stockpiled directly adjacent to the travel way on the Project ROW and separated from other excavated materials; the Agricultural Inspector determines depth of topsoil stripping on each affected farm by means of the County Soil Survey and on-site soil augering, if necessary; all topsoil material is stripped, stockpiled, and uniformly returned to restore the original soil profile; during the clearing/construction phase; and the use of topsoil stripping for construction access, as opposed to matting, is done only with approval from DPS Staff in consultation with AGM.

94. The Certificate Holder shall ensure that: in agricultural areas of till over bedrock where blasting is required, matting or controlled blasting is used to limit the dispersion of blast rock fragments; all blasted rock not used as backfill is removed from croplands, haylands and improved pastures; the till and topsoil is returned in natural sequence to restore the soil profile;

and farm owners/operators are given timely notice prior to blasting on farm property. Blasting operations in locations where geotechnical investigations confirm the presence of subsurface karst features shall be limited or performed under specific procedures recommended for those locations by a geotechnical engineer. Any blasting operations shall be performed in accordance with a Blast Monitoring Plan that is developed in consultation with and accepted by NYSDEC and DPS Staff and at a minimum be in accordance with NYSDOT standards specified in the most recent revision of "GEOTECHNICAL ENGINEERING MANUAL GEM-22." The Blast Monitoring Plan will also include procedures and timeframes for notifying host communities and property owners within one-half mile radius of the blasting site. The notification provided shall include information regarding filing a complaint.

95. The Certificate Holder shall ensure that: in all agricultural sections of the Project ROW disturbed during construction, the subsoil compaction is eliminated to a depth of 18 inches (unless bedrock is encountered at a depth less than 18 inches) with deep tillage by such devices as a deep-ripper (subsoiler); final soil compaction results shall not be more than 250 pounds per square inch (PSI) as measured with a soil penetrometer; following the deep ripping, all stone and rock material four (4) inches and larger in size, which has been lifted to the surface, shall be collected and taken off site for disposal; following the deep ripping, all debris shall be disposed of in a manner consistent with Certificate Condition 49; the topsoil temporarily removed for the period of construction shall then be replaced; deep subsoil shattering shall be performed with a subsoiler tool having angled legs; and stone removal shall be completed, as necessary, to eliminate any additional rocks and stones brought to the surface as a result of the final subsoil shattering process. Should subsequent construction and/or restoration activities result in compaction, then restoration activities shall include additional deep tillage.

96. The Certificate Holder shall be solely responsible for providing monitoring and remediation for a period of no less than two growing seasons following completion of Project ROW restoration in active agricultural areas. The Certificate Holder shall be solely responsible for retaining the services of an Agricultural Monitor on at least a part-time basis through this period. The monitoring and remediation phase shall be used to identify any remaining agricultural impacts associated with Project construction that are in need of mitigation and to implement the follow-up restoration.

97. The Certificate Holder shall ensure that, during the monitoring and remediation period, on-site monitoring shall be conducted at least three times during each growing season and shall include a comparison of growth and yield for crops on and off such portion of the Project ROW. When the subsequent crop productivity within the affected ROW is less than that of the adjacent unaffected agricultural land, the Agricultural Inspector, in conjunction with such Certificate Holder and other appropriate organizations, shall help to determine the appropriate rehabilitation measures for such Certificate Holder to implement (soil de-compaction, topsoil replacement, etc.). The Certificate Holder shall ensure that, during the various stages of the Project, all affected farm operators are periodically apprised of the duration of remediation by the Agricultural Inspector. Because conditions which require remediation may not be noticeable at or shortly after the completion of construction, the

signing of a release form prior to the end of the remediation period shall not obviate such Certificate Holder's responsibility to fully redress the impacts of its Project. After completion of the specific remediation period, such Certificate Holder shall continue to respond to the reasonable requests of the farmland owner/operators to correct effects related to the Project on the impacted agricultural resources.

98. The Certificate Holder shall provide all affected farm owners/operators with a telephone number to facilitate direct contact with such Certificate Holder and the Agricultural Inspector(s) through all of the stages of the work. The Certificate Holder shall also ensure that the farm owner/operators are provided with a telephone number to facilitate direct contact with the Certificate Holder's Project Manager(s) during operation and maintenance of the transmission line.

99. The Agricultural Inspector shall work with the farm operators during the planning phase to develop a plan to delay the pasturing of the Project ROW following construction of each segment of the Project until pasture areas are adequately revegetated. The Certificate Holder shall be responsible for maintaining the temporary fencing on the applicable portions of the ROW until the Agricultural Inspector determines that the vegetation on such portions of the ROW is established and able to accommodate grazing. At such time, the Certificate Holder shall be responsible for removal of the fences.

100. The Certificate Holder shall ensure that: on affected farmland, restoration practices are postponed until favorable (workable, relatively dry) topsoil/subsoil conditions exist; restoration is not conducted while soils are in a wet or plastic state; stockpiled topsoil is not regraded until plasticity, as determined by the Atterberg field test, or a similar soil moisture test, is significantly reduced; and no Project restoration activities occur in agricultural fields between the months of October through May unless acceptable soil moisture conditions exist. The Certificate Holder shall monitor and advise AGM and DPS Staff regarding tentative restoration planning for its Project Components. Potential schedules will be determined by conducting the Atterberg field test, or a similar soil moisture test, at appropriate depths into topsoil stockpiles and below the traffic zone for a mutual determination of adequate field conditions for the restoration phase of the Project.

101. Following restoration of all disturbed areas, excess topsoil shall be distributed in agricultural areas of the site, provided this is practicable and can be accomplished without having any adverse impact on site drainage. All such activity shall be as directed by the Agricultural Inspector, based on guidance provided by the landowner.

102. After the moisture of the soil profile on the affected portion of the project ROW has been returned to equilibrium with the adjacent off-ROW land, subsoil compaction shall be tested using an appropriate soil penetrometer or other soil-compaction measuring device.

103. The Certificate Holder shall ensure that: topsoil stockpiles on agricultural areas left in place prior to October 31 are seeded with Aroostook Winter Rye or equivalent at an application rate of three (3) bushels (168 #) per acre and mulched with straw mulch at rate of two (2) to three (3) bales per 1,000 sq. ft.; topsoil stockpiles left in place between October 31 and May 31 are mulched with straw mulch at a rate of two (2) to three (3) bales per 1,000 sq.

ft.; and straw (not hay) mulch is used to prevent soil loss on stockpiled topsoil from October through May.

104. The Certificate Holder shall ensure that, after topsoil replacement, seedbed preparation (final tillage, fertilizing, liming) and seeding follow either current AGM recommendations as contained in *Fertilizing, Lime and Seeding Recommendations for Restoration of Construction Projects on Farmlands in New York State* or landowner specifications.

N. Petroleum and Hazardous Substances

105. The EM&CP shall include a plan for storage of all petroleum and hazardous substances which may be used during, or in connection with, the construction, operation, or maintenance of the Project.

106. The EM&CP shall include a plan for responding to and remediating the effects of any spill of petroleum and hazardous substances in accordance with applicable law and regulations. Such plan shall be developed in accordance with applicable state and federal laws, regulations and guidance, and shall include proposed methods of handling spills of petroleum products and hazardous substances which may be stored or utilized during the construction, operation, or maintenance of the Project.

107. The Certificate Holder shall comply with §175 of the Navigation Law, 6 NYCRR §613.8 (petroleum spills), and 6 NYCRR §595.3(b) (hazardous substance spills).

O. Contractors and Contractor Supplies/Materials

108. All equipment shall be located within approved marshaling yard(s) or within designated areas of the Project ROW, provided, however, that if a local contractor is used for the work, the local contractor's facility may be considered as an acceptable marshaling yard.

109. DPS Staff will provide the name of a contact person(s) ("DPS Staff Representative") and the contact information (mailing address, phone number, e-mail, etc.) of that individual for purposes of this Certificate Condition and Certificate Conditions 64 through 70 of this Certificate. If a reportable accident, the Certificate Holder shall report such accident to the DPS Staff Representative as soon as possible, and shall provide a copy of the accident report, if any, to the DPS Staff Representative after it has been finalized.

110. If a contractor installs materials, structures, or components that do not conform to those specified in the EM&CP, the Certificate Holder within one (1) month after becoming aware of such incident, shall prepare and deliver to the DPS Staff Representative a summary report detailing the incident, and the steps to be taken to rectify the mistake.

111. The Certificate Holder shall develop a quality control plan ("Quality Control Plan") to be included in the EM&CP describing how it will ensure that the transmission line structures and components it purchases conform to the specification for structures and components described in the EM&CP. At a minimum, the Quality Control Plan shall include: (i) the

name(s) and qualifications of the individual(s) who will conduct audits under the Quality Control Plan ("Quality Control Audits"); and (ii) the frequency with which the Quality Control Audits will be performed.

P. Invasive Species

112. The Certificate Holder shall comply with the Invasive Species Control Plan included as Appendix F to the Joint Proposal.

Q. Water Quality Certification

113. To request a Water Quality Certification in connection with its application for a permit under Section 404 of the Federal Water Pollution Control Act authorizing construction work in federal-jurisdictional waters and wetlands, the Certificate Holder shall comply with applicable federal and state regulations and complete the required DEC form WQC-1 for submittal to the Director of the Office of Electric, Gas, and Water or their designee, pursuant to §401 of the Federal Water Pollution Control Act.

R. Decommissioning

114. Final Decommissioning Plan (for transmission section) shall be filed in the EM&CP. Letters of credit will be established by the Certificate Holder to be held by each municipality hosting transmission facility components. The amount of financial security created for the towns will represent the total decommissioning and site restoration estimate, as described below. The Final Decommissioning Plan shall include:

(a) The anticipated life of the transmission line;

(b) A final decommissioning and site restoration estimate, in current dollars, based on the certified transmission route. No offset for projected salvage value is permitted in the estimate. This estimate shall be updated by a qualified independent engineer licensed to practice engineering in the State of New York to reflect inflation and any other changes after one year of Facility operation, and every fifth year thereafter; estimates will be filed with the Secretary after one year of Project operation and every fifth year thereafter;

(c) The method of ensuring that funds will be available for decommissioning and restoration;

(d) The manner in which the Project will be decommissioned and the site restored.

115. After approval of the Decommissioning Plan, the Certificate Holder shall obtain letters of credit for each municipality hosting transmission facilities, based on the estimated number of transmission line structures within each. The letter of credit shall state on its face it is held by and for the sole benefit of the Town. The Certificate Holder shall maintain the letters

of credit until the Facility is fully decommissioned and all affected areas are fully restored. The Certificate Holder shall not encumber or create any security interest(s) in the letter of credit in favor of a third party. Prior to construction of the transmission facility, the Certificate Holder shall file, with the Secretary, the following information regarding the letters of credit:

(a) Documentation indicating approval by the municipalities of an acceptable form of letter of credit;

(b) Proof that the letters of credit have been obtained in the final decommissioning and site restoration estimate amount, as calculated pursuant to the Decommissioning Plan;

(c) Copies of agreements establishing a right for each host municipality to draw on the letter of credit in the event of the Certificate Holder's failure to timely decommission the Facility and restore affected areas in accordance with the Decommissioning Plan;

(d) Letters of credit shall be updated after one year of Facility operation and every fifth year thereafter, based on updated estimates described in sub-section (a) of this condition. Documentation shall be filed with the Secretary after one year of Project operation and every fifth year thereafter specifying changes to the structure of the letters of credit; and

(e) Procedures and timeframes for providing written notice to the municipalities and landowners of planned decommissioning and site restoration activities prior to commencement of those activities.

116. The Certificate Holder may submit a combined final decommissioning and site restoration filing addressing such requirements of Case 16-F-0205 (per Certificate Condition 45 of Appendix A of the Order Granting Certificate of Environmental Compatibility and Public Need, With Conditions issued on March 13, 2020) and decommissioning and site restoration of the transmission facility requirements as detailed in this Article VII case at proposed Certificate Conditions 114 through 116 of Appendix D to the Joint Proposal, provided that the same filing is submitted and approved in the EM&CP of this case, and as a compliance filing in Case 16-F-0205. Such overall decommissioning plan shall provide decommissioning and site restoration estimates for all transmission and wind farm facilities related to the Canisteo Wind Project; if agreed upon by host municipalities and the Certificate Holder, financial assurance for towns hosting facilities related to this Article VII Case (19-T-0041) and Article 10 Case 16-F-0205 can be established in a single irrevocable letter of credit dedicated for decommissioning and site restoration funding for transmission and wind farm facilities, along with an accompanying agreement establishing a right for the towns to draw on the letters of credit. Therefore, if an overall decommissioning plan covering all facilities satisfying all requirements associated with both cases is approved in either case, it can be filed without modification in the other case.

Case 19-T-0041 Joint Proposal

Appendix E – Standards for Environmental Management and Construction Plan

SPECIFICATIONS FOR THE DEVELOPMENT OF ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN

Section A of the Specifications for the Development of Environmental Management and Construction Plan (Specifications) addresses the development of the plan and profile drawings, and maps portion of the Environmental Management and Construction Plan (EM&CP).

Section B addresses the description and statement of objectives, techniques, procedures, and requirements, i.e. the textual portion of the EM&CP. A table of contents will be included for the EM&CP and each section, appendix or exhibit containing ten or more pages.

If any particular requirement of the Specifications is not applicable, so indicate and briefly explain.

A. EM&CP Plan and Profile Drawings and Maps

The EM&CP maps, charts, photostrip maps, and illustrations shall include, but need not be limited to, the following information:

1. Plan and Profile Details

A Line[1] Profile (at an appropriate scale) and plan drawings (scale minimum 1 inch = 200 feet)[2] showing:

a. The boundaries of any new, existing, and/or expanded right-of-way (ROW)[3] or road boundaries, and where cables

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[1] The lowest conductor of an overhead design shall be shown in relation to ground at the maximum permissible conductor temperature for which the line is designed to operate, i.e., normally the short-time emergency loading temperature. If a lesser conductor temperature is used for the line profile, the maximum sag increase between the conductor temperature and the maximum conductor temperature shall be indicated for each ruling span. For underground project design, show relation of project to final surface grade, indicating design depth-of-cover.

[2] Contour lines (preferably at 5-foot intervals) are desirable on the photostrip map if they can be added without obscuring the required information.

[3] The term "right-of-way" in these *Specifications* includes property, whether owned in fee or easement, to be used for substations, disposal sites, underground terminals, storage yards, and other associated facilities. Where such properties cannot reasonably be shown on the same plan or photo-strip, maps, or plan drawings used for the transmission line, additional maps or drawings at convenient scales should be used.

are to be constructed overhead or underground; plus, areas contiguous to the ROW or street within which the Certificate Holders will obtain additional rights.

b. The location of each Facility structure (showing its height, material, finish and color, and type), structural foundation type (*e.g.*, concrete, direct bury), fence, gate, down-guy anchor, and any counterpoise required for the Facility (typical counterpoise drawings will suffice recognizing that before field testing of installed structures the Certificate Holder may be unable to determine the specific location of all required counterpoise), conductors, insulators, mid-span splices, and static wires and other components attached to Facility structures.
c. Existing utility or non-utility structures on the ROW, and indicate those to be removed or relocated (include circuit arrangements where new structures will accommodate existing circuits, indicate methods of removal of existing facilities, and show the new locations, types and configurations of relocated facilities).
d. Any underground utility or non-utility structure.
e. The relationship of the Facility to nearby fence lines; roads; trails; railways; airfields; property lines; hedgerows; surface waters; wetlands; other water bodies; significant habitats; associated facilities; flowing water springs; nearby buildings or structures; major antennas; oil or gas wells, and blowdown valves.
f. The location of any proposed new or expanded switching station, substation, or other terminal or associated utility or non-utility structure (attach plan[4] - plot, grading, drainage, and electrical - and elevation views with architectural details at appropriate scales). Indicate the type of outdoor lighting, including design features to avoid off-site illumination and minimize glare; the color and finish of all structures; the locations of temporary or permanent access roads, parking areas, construction contract limit lines, property lines, designated floodways and flood-hazard area limits,

[4] Preferably 1" = 50' scale with 2-foot contour lines.

buildings, sheds, relocated structures, and any plans for water service and sewage and waste disposal.

g. The location and boundaries of any areas whether located on- or off- ROW proposed to be used for fabrication, designated equipment parking, staging, access, lay-down, and conductor pulling. Indicate any planned fencing, surface improvements, and screening of storage and staging areas.
h. The locations for ready-mix concrete chute washout and any other cleaning activities (e.g., control of invasive species).

2. Stormwater Pollution Prevention

a. Include on the plan and profile drawings the acknowledged Storm Water Pollution Prevention Plan (SWPPP) details. Include the locations of soil erosion and sediment control measures developed in accordance with the latest version of the New York Standards and Specifications for Erosion and Sediment Control (e.g., stabilized construction entrances, silt fences, check dams, and sediment traps).
b. Include on the plan and profile drawings the approved SWPPP locations of all permanent stormwater management controls that are required based on site-specific conditions or conditions of the Certificate.

3. Vegetation Clearing and Disposal Methods

Identify on the plan and profile drawings:

a. the locations of sites requiring trimming or clearing of vegetation and the geographic limits of such trimming or clearing;
b. the specific methods for the type and manner of cutting and disposition or disposal method for cut vegetation (e.g., chip; cut and pile; salvage merchantable timber, etc.);
c. the methods for management of vegetation to be cut or removed at each site;
d. any geographical area bounded by distinctly different cover types requiring different cut-vegetation management methods;

e. any geographical area bounded at each end by areas requiring distinctly different cut-vegetation methods due to site conditions such as land use differences, population density, habitat or site protection, soil or terrain conditions, fire hazards, or other factors;
f. different property-owners requesting specific vegetation treatment or disposal methods;
h. areas requiring (off-ROW) danger tree removal; and,
i. the location of any areas where specific vegetation protection measures will be employed and the details of those measures to avoid damage to specimen tree stands of desirable species, important screening trees, or hedgerows.

4. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed.

5. Waterbodies

a. Indicate the name, water quality classification and location of all rivers and streams, (whether perennial and intermittent) and drainages crossed by, the proposed ROW or any off-ROW access road constructed, improved, or maintained for the Facility. On the plan and profile drawings, indicate:
   i. stream crossing method and delineate any designated streamside "protective or buffer zone" in which construction activities will be restricted to the extent necessary to minimize impacts on rivers and streams;
   ii. the activities to be restricted in such zones; and,
   iii. identify any designated floodways or flood hazard areas to be traversed by the Facility or access roads, or otherwise used for Facility construction or the site of associated facilities.
b. Show the location of all potable water sources, including springs and wells on the ROW or within 100 feet of the ROW or access roads, indicating, on a site-by-site basis, precautionary measures to be taken to protect each water source.

6. Wetlands

a. All wetlands and wetland 100-foot adjacent areas (adjacent areas) located within the ROW or crossed by the ROW or any off-ROW access road constructed, improved, or maintained for the Facility shall be depicted on EM&CP drawings. The plan and profile drawings shall delineate the wetland "protective or buffer zone" in which construction activities will be restricted to the extent necessary to minimize impacts on wetlands.

b. Indicate the location and type (i.e., identification code for regulated town, state, or federal wetlands) of any wetland (e.g., marsh, meadow, bog, or scrub-shrub or forested swamp) within or adjoining the ROW or any access road, as determined by site investigation and delineation.

c. Indicate type and location of precautionary measures (e.g., mats) to be taken to protect all wetlands, associated drainage patterns, and wetland functions.

7. Land Uses

a. Agricultural Areas

i. Indicate the locations of sites under cultivation or in active agricultural use including rotational pasture, pasture, hayland, and cropland.

ii. Indicate the location of any unique agricultural lands including maple sugarbushes, organic muckland and permanent irrigation systems, as well as areas used to produce specialty crops such as vegetables, berries, apples, and grapes.

iii. Indicate the location of vulnerable soils in agricultural areas that are more sensitive than other agricultural soils to construction disturbance due to slope, soil wetness, and shallow depth to bedrock.

iv. Indicate the location of all land and water management features including subsurface drainage, surface drainage, diversion terraces, buried water lines, and water supplies.

v. Designate the site-specific techniques to be implemented to minimize or avoid construction-related impacts to agricultural resources.

b. Sensitive Land Uses and Resources
Indicate the location and identification of sensitive land uses and resources that may be affected by construction of the Facility or by construction-related traffic (e.g., hospitals, emergency services, sanctuaries, schools, and residential areas).

c. Geologic, Historic, and Scenic or Park Resources
Indicate the locations of geologic, historic, and existing or planned scenic or park resources and specify measures to minimize impacts to these resources (e.g., fencing, signs).

d. Recreational
Indicate the locations where existing or planned recreational use areas, would affect or be affected by the Facility location, construction or other ROW preparation.

8. Access Roads, Lay-down Areas and Workpads

Indicate the locations of temporary and permanent on- and off-ROW access roads, lay-down areas and workpads. Provide construction type, material, and dimensions. Indicate provisions for upgrading any existing access roads.

9. Noise Sensitive Sites

Show the locations of noise-sensitive areas along the proposed ROW.

10. Ecologically and Environmentally Sensitive Areas

Indicate the general locations of any known ecologically and environmentally sensitive sites (e.g., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or scenic quality; deer winter yards, etc.), within or nearby the proposed or existing ROW or along the general alignment of any access roads to be constructed, improved or maintained for the Facility. Specify the measures that will be taken to

protect these resources (e.g., fencing, flagging, signs "Sensitive Environmental Areas, No Access").

11. Invasive Species of Special Concern

Identify the location(s) of invasive species of special concern and the prescribed method to control the spread and/or eradicate the identified species.

12. Herbicide

On the plan and profile drawing notes, indicate areas where herbicides will not be used.

B. Description and statement of objectives, techniques, procedures and requirements

The textual portion of the EM&CP for the Facility shall include, but need not be limited to, all of the following information:

1. Facility Location and Description

Describe the location and limits of the site or ROW and explain the need for any additional rights. For each structure type, indicate the GSA-595A Federal standard color designation or manufacturer's color specification to be used for painted structures. State any objections raised by Federal, State, or local transportation (highways, waterways, or aviation) officials to the final location or manner of installation of, or access to, the certified Facility. Provide a rationale for the inclusion of any mid-span splice locations proposed.

2. Stormwater Pollution Prevention

a. The information included in the acknowledged SWPPP.
b. In areas of coastal erosion hazard, include plans to demonstrate compliance with the standards for coastal erosion hazard protection as required by 6 NYCRR Part 505 -Coastal Erosion Management.

3. Vegetation Clearing and Disposal Methods

a. Describe the specific methods and rationale for the type and manner of cutting and disposition or disposal methods for cut vegetation.
b. Detail specific measures employed to avoid damage to specimen tree stands of desirable vegetation, rare, threatened and endangered species, important screening trees, and hedgerows.
c. Identify the factors such as the attributes of the site, outcome of landowner negotiations, and attributes of the logs, upon which Certificate Holder's removal of the merchantable logs resulting from clearing the ROW for the Facility will be based.
d. Describe methods of compliance with 6 NYCRR Part 192 – Forest Insect and Disease Control, applicable New York State Department of Environmental Conservation (NYSDEC) quarantine orders, and New York State Department of Agriculture and Markets (NYSDAM) regulations.

4. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed. Provide the rationale for the acquisition and removal of buildings or structures.

5. Waterbodies

a. Describe the measures to be taken to protect stream bank stability, stream habitat, and water quality including, but not limited to: crossing technique; crossing structure type; timing restrictions for in-stream work; stream bed and bank restoration measures; vegetation restoration measures; and other site-specific measures to minimize impacts, protect resources, and manage Facility construction.
b. Indicate the procedures that were followed to inventory such resources and provide copies of any resulting data sheets and summary reports.
c. Develop a table of waterbodies crossed by the Facility and include: Town (location), Existing Structure Span (mileposts), Stream Name, Field/Map Identification Name, Perennial or Intermittent, New York Stream

Classification, Water Index Number, Crossing Method and Length, Fishery Type, GPS coordinates.

6. Wetlands

a. For each State-regulated wetland, indicate the following: town (location); existing Structure Span (milepost); wetland field designation; NYSDEC classification code; wetland type; proposed structure located within wetland; total area of temporary disturbance/impact; dead end structures in NYSDEC wetlands; tangent structures in NYSDEC wetlands; total area of permanent disturbance in NYSDEC wetlands (sq. ft.); area crossed by Facility (sq. ft.); conversion of State-regulated forested wetlands (sq. ft.).

b. Describe all activities that will occur within State-regulated wetlands or adjacent areas (e.g., construction, filling, grading, vegetation clearing, and excavation) and assure that the activity is consistent with the weighing standards set forth in 6 NYCRR 663.5(e) and (f). Describe how impacts to wetlands, adjacent areas, associated drainage patterns, and wetland functions will be avoided, and how impacts will be minimized.

c. Describe the precautions or measures to be taken to protect all other wetlands (e.g., town, federal wetlands) associated drainage patterns, and wetland functions.

7. Land Uses

a. Agricultural Areas

   i. Describe programs, policies, and procedures to mitigate agricultural impacts such as soil compaction. Explain how construction plans either avoid or minimize crop production losses and impacts to vulnerable soils.

   ii. Indicate specific techniques and references to appropriate agricultural protection measures recommended by NYSDAM.

b. Sensitive Land Uses

Describe the sensitive land uses (e.g., hospitals, emergency services, sanctuaries, schools, residential

areas) that may be affected by construction of the Facility or by construction-related traffic and specify measures to minimize the impacts on these land uses.

c. Geologic, Historic and Scenic or Park Resources
Describe the geologic, historic, and scenic or park resources that may be affected by construction of the Facility or by construction-related traffic and specify measures to minimize impacts on these resources. Indicate the procedures that were followed to identify such resources and specify the measures that will be taken to protect or preserve these resources. Reports prepared to identify and analyze such sites shall be made available to Department of Public Service (DPS) Staff upon request.

d. Recreation Areas
Explain how proposed or existing recreation areas will be avoided or accommodated during construction, operation, and maintenance of the Facility.

8. Access Roads, Lay-down Areas and Workpads

a. Discuss the necessity for access to the ROW, including the areas where temporary or permanent access is required; and the nature of access improvements based on natural features, equipment constraints, and vehicles to be used for construction and maintenance, and the duration of access needs through restoration and the maintenance of the Facility.

b. Discuss the types of access which will be used and the rationale for employing that type of access including consideration of:

   i. temporary installations (e.g., corduroy, mat, fill, earthen road, geotextile underlayment, gravel surface, etc.);

   ii. permanent installations (e.g., cut and fill earthen road, geotextile under-layment, gravel surface, paved surface, etc.);

   iii. use of roads, driveways, farm lanes, rail beds, etc.; and,

   iv. other access, e.g. helicopter or barge placement. For each temporary and permanent access type, provide a figure or diagram showing a typical

installation (include top view, cross section, and side view with appropriate distances and dimension). Where existing access ways will be used, indicate provisions for upgrading to meet appropriate standards.

c. Indicate the associated drainage and erosion control features to be used for access road construction and maintenance. Provide diagrams and specifications (include plan and side views with appropriate typical dimensions) for each erosion control feature to be used, such as:
   i. staked straw bale or check dam (for ditches or stabilization of topsoil);
   ii. broad-based dip or berm (for water diversion across the access road);
   iii. roadside ditch with turnout and sediment trap;
   iv. French drain;
   v. diversion ditch (water bar);
   vi. culvert (including headwalls, aprons, etc.);
   vii. sediment retention basin (for diverting out-fall of culvert or side ditch); and,
   viii. silt fencing.
d. Indicate the type(s) of stream crossing method to be used in conjunction with temporary and permanent access road construction. Provide diagrams and specifications (include plan and side view with appropriate dimensions) for each crossing device and rationale for their use. Stream crossing devices may include but not be limited to:
   i. timber mat;
   ii. culverts including headwalls;
   iii. bridges (either temporary or permanent); and,
   iv. fords.
e. All diagrams and specifications should include material type and size to be placed in streams and on stream approaches.
f. If access and workpad areas cannot be limited to upland areas, provide justification for any access and workpad areas which are proposed to be located in a wetland or stream or waterbody.

9. Noise Sensitive Sites

Specify procedures to be followed to minimize noise impacts related to ROW clearing, and construction and operation of the Facility. Indicate the types of major equipment to be used in construction or Facility operation; sound levels at which that equipment operates; days of the week and hours of the day during which that equipment will normally be operated; any exceptions to these schedules; and any measures to be taken to reduce audible noise levels caused by either construction equipment or Facility operation.

10. Ecological and Environmentally Sensitive Sites

Indicate the procedures that were followed to identify ecological and environmental resources (e.g., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or scenic quality; deer winter yards) and specify the measures that will be taken to protect or preserve these resources. Reports prepared to identify and analyze such sites shall be identified, and made available upon request.

11. Invasive Species of Special Concern

a. Provide an invasive species prevention and management plan for invasive species of special concern, prepared in consultation with DPS Staff, NYSDEC, and NYSDAM, based on the pre-construction invasive species survey of invasive species within the ROW.
b. The plan shall include measures that will be implemented to minimize the introduction of invasive species of special concern and the spread of existing invasive species of special concern during construction (e.g., soil disturbance, vegetation clearing, transportation of materials and equipment, and landscaping/revegetation).

12. Herbicides

a. Specify the locations where herbicides are to be applied. Provide a general discussion of the site conditions (e.g., land use, target and non-target vegetation species composition, height, and density) and the choice of herbicide, formulation, application method, and timing.

b. Describe the procedures that will be followed during application to protect non-target vegetation, streams, wetlands, potable waters and other water bodies, and residential areas and recreational users on or near the ROW.

13. Fugitive Dust Control

Specify appropriate measures that will be used to minimize fugitive dust and airborne debris from construction activity.

14. Petroleum and Chemical Handling Procedures

a. Include a plan for the storage, handling, transportation, and disposal of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be used during, or in connection with, the construction, operation, or maintenance of the Facility. Address how to avoid spills and improper storage or application in the vicinity of any wetland, river, creek, stream, lake, reservoir, spring, well, or other ecologically sensitive site, or existing recreational area along the ROW and access roads.
b. Include a plan for responding to and remediating the effects of any spill of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances in accordance with applicable State and Federal laws, regulations, and guidance, and include proposed methods of handling spills of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be stored or utilized during the construction and site restoration, operation, and maintenance of the Facility.

15. Environmental Supervision

a. Describe protocols for supervising demolition, vegetation clearing, use of herbicides, construction, and site restoration activities to ensure minimization of environmental impact and compliance with the environmental protection provisions specified by the Certificate.

b. Specify the titles and qualifications of personnel proposed to be responsible for ensuring minimization of environmental impact throughout the demolition, clearing, construction, and restoration phases, and for enforcing compliance with environmental protection provisions of the Certificate and the EM&CP. Indicate the amount of time each supervisor is expected to devote to the project.
c. Specify responsibilities for personnel monitoring all construction activities, such as clearing, sensitive resource protection, site compliance, EM&CP change notices, etc.
d. Explain how all environmental protection provisions will be incorporated into contractual specifications, and communicated to those employees or contractors engaged in demolition, clearing, construction, and restoration.
e. Describe the procedures to "stop work" in the event of a Certificate violation.
f. Identify the company's designated contact including 24/7 emergency phone number, for assuring overall compliance with Certificate conditions.

16. <u>Clean-up and Restoration</u>

Describe the Certificate Holder's program for ROW clean-up and restoration, including:

a. the removal of any temporary roads; restoration of lay-down or staging areas; the finish grading of any scarified or rutted areas; the removal of waste (e.g. excess concrete), scrap metals, surplus or extraneous materials or equipment used;
b. plans, standards and a schedule for the restoration of vegetative cover; including, but not limited to, specifications to address:
    i. design standards for ground cover:
        1. species mixes and application rates by site;
        2. site preparation requirements (soil amendments, stone removal, subsoil treatment, or drainage measures);
        3. acceptable final cover % by cover type;
    ii. planting installation specifications and follow-up responsibilities;

iii. a schedule or projected dates of any seeding and/or planting; and,
iv. plans to prevent unauthorized access to and along the ROW.

17. Visual Impact Mitigation

Provide details of screening or landscape plans prescribed at road crossings and for adjacent property owners. Discuss existing or proposed landscape planting, earthwork, or installed features to screen or landscape substations and other Facility components.

18. ROW Encroachment Plan

Provide detailed plans for identifying and resolving potential encroachments to the existing and proposed ROW.

19. Wetland Mitigation Plan

Provide a proposal to address wetlands mitigation, for all permanent impacts to State-regulated wetlands and Federally- regulated wetlands, if prescribed by the Army Corps of Engineers, including, but not limited to, the permanent conversion of forested wetland to scrub-shrub wetland. If such proposal is to prepare a detailed mitigation plan for State regulated wetlands, it shall separately address impacts to each of the wetlands benefits described in ECL § 24-0105(7). Plans shall provide for wetland mitigation in the same watershed to the maximum extent possible.

Case 19-T-0041 Joint Proposal

Appendix F – Invasive Species Control Plan

Case 19-T-0041 Canisteo Wind Energy LLC
Appendix F to Joint Proposal

Invasive Species Control Plan

Canisteo Wind – Transmission Line

Steuben County, New York ● Case 19-T-0041 ● February 2022

1 Project Information

Canisteo Wind Energy LLC (CWE) proposes installation of a 115kV transmission facility (the Facility) in Steuben County, New York to connect the Canisteo Wind Farm to the Bennett Substation.

2 Purpose

Facility construction within the limits of disturbance of construction of the Project (Project LOD) could disturb the hydrology, soils, and vegetation of ecosystems including wetlands and riparian areas that are susceptible to a variety of biological stressors and direct impacts. The introduction and/or spread of invasive species represents a major threat to the health of these ecosystems in the Facility. Invasive species are defined in New York State Department of Environmental Conservation (NYSDEC) Part 575, available at https://www.dec.ny.gov/animals/99141.html.

This plan describes best management practices to minimize the chance that movement of topsoil, fill, felled trees, and construction equipment will inadvertently introduce or increase the existing extent of invasive species within the Project LOD.

3 Existing Conditions

Environmental Design & Research, Landscape Architecture, Engineering, & Environmental Services, D.P.C. (EDR) identified invasive species in the Facility Area during the course of its work delineating wetlands in the Fall of 2017 and Spring/Summer of 2018. The following invasive species were identified in the Facility Area during EDR's site visits; they are referred to in this memo as the Known Invasive Species (KIS):

- Purple loosestrife (*Lythrum salicaria*),
- Common reed or phragmites (*Phragmites australis*),
- Japanese knotweed (*Reynoutria japonica var. japonica*),
- Buckthorn (*Rhamnus* spp.),
- Morrows' honeysuckle (*Lonicera morrowii*),
- Multiflora rose (*Rosa multiflora*),
- Japanese barberry (*Berberis thunbergii*),
- Spotted knapweed (*Centaurea stoebe*),
- Creeping thistle (*Cisium arvense*),
- Garlic mustard (*Allaria petiolata*),

- Yellow flag iris (*Iris pseudacorus*),
- Autumn olive (*Elaeagnus umbellata*),
- Border privet (*Lingustrum obtusifolium*),
- Black locust (*Robinia pseudoacacia*),
- Norway maple (*Acer platanoides*),
- Mugwort (*Artemesia vulgaris*),and
- Swallow-wort (*Cyanchum louiseae* or *C. rossicum*).

In addition, any invasive species per Part 575 not listed above and identified during pre-construction surveys will be added to the list of KIS.

4 Invasive and Nuisance Insects

The NYSDEC identifies several nuisance and invasive insects that are present in New York. The following species may occur within the Project LOD:

Emerald Ash Borer (EAB) (*Agrilus planipennis*)

The EAB is an Asian beetle that infests and kills North American ash species (Fraxinus sp.) including green, white, black and blue ash, and their cultivars. Infested trees gradually die over a 2- to 4-year period. EAB is not a particularly strong flier. Adults typically fly less than ½ mile from their emergence tree. Most long-distance movement of EAB has been directly traced to ash firewood or ash nursery stock. As of May 2019, EAB has been identified throughout most towns in Steuben County, with the exception of Hartsville, Greenwood, West Union, Troupsburg, Jasper, Rathbone, and Hornby. It may be present in the Facility Site.

Sirex Woodwasp (*Sirex noctilio*)

The sirex woodwasp is an invasive pest native to Eurasia that was discovered in Oswego County in 2004. It has caused extensive losses to pine plantations across the Southern Hemisphere. Sirex woodwasp is known to be present in Steuben County and may be present in the Facility Site.

Spotted Lanternfly (SLF) (*Ailanthus altissima*)

SLF is an invasive pest from Asia that primarily feeds on tree of heaven but can also feed on a wide variety of plants such as grapevine (*Vitis* sp.), hops (*Humulus* sp.), maple (*Acer* sp.), walnut (*Juglans* sp.), fruit trees and others. In New York has been found or reported in Delaware, Albany, Monroe, Yates, and Suffolk counties. NYS Department of Agriculture and Markets and NYSDEC are working to monitor movements of goods from infected areas Species found in neighboring Counties of Chemung, Ontario, and Yates. No species found in Steuben as of 6/11/19.

Asian Longhorned Beetle (ALB) (*Anoplophora glabripennis*)

ALB is an invasive wood-boring insect that feeds on a variety of hardwoods including maple, birch, elm, ash, poplar, horsechestnut, and willow, among others. ALB was identified in Brooklyn and other downstate locations, but no detections have been made in upstate New York. ALB is not expected to be present at the Facility Site.

Hemlock Woolly Adelgid (HWA) (*Adelges tsugae*)

The HWA is an invasive, aphid-like insect that attacks North American hemlocks. NYSDEC mapping dated May 2019 indicates that HWA is present in the Town of Canisteo and other areas of Steuben County.

5 Pre-Construction Surveys

Prior to commencing construction-related earthmoving activities in an area, CWE will survey the Project LOD to document the presence and area coverage of KIS just prior to commencement of construction.

CWE will also note any populations of KIS adjacent to or extending 15 feet outside the Project LOD and populations of KIS that are encroaching into the Project LOD. This survey will establish a pre-construction accounting of percentage areal coverage of KIS through the methods described below. CWE's documentation of KIS outside the Project LOD will document a baseline for potential spread of invasive plant species into the Project LOD and does not connote a responsibility of CWE to manage KIS outside of the Project LOD.

To survey an area, a qualified biologist will walk through and visually inspect plants and inspect organisms growing in the subject area. For each population of KIS identified, the biologist will note the location and estimated density. Locational information will be recorded via GPS and will be conducted in a format that allows data to be integrated into iMapInvasives databases. Density will be recorded using the following absolute cover ranges and distribution categories, which are related to the format used in the iMapInvasives Mobile Advanced application[1]:

Absolute Percent Cover Class	Distribution Categories	Age of Woody Plants	Phenology Characteristics
Less than 5% absolute cover	Trace (single plant or clump)	Seedlings	Vegetative
5-25% absolute cover	Sparse (scattered plants/clumps)	Mature	Fruits
26-50% absolute cover	Dense plants/clumps	Seedling and Mature	Seeds
51-75% absolute cover	Monoculture	-	Dormant
76-100% absolute cover	Linearly scattered	-	Dead

[1] NYSDEC. 2020. *iMap Mobile Advanced (iMMA) – Advanced Mobile Tools for NY iMapInvasives.* Youtube. Uploaded by iMapInvasives NY, March 26, 2020. Available at: https://www.youtube.com/watch?v=cbWPeLhXfR8&t=290s (Accessed August 2020).

If CWE surveyors identify KIS in the Project LOD, they will use highly visible survey tape to clearly identify the area to construction workers. As discussed below, CWE will train construction workers to identify KIS and adhere to construction practices.

Results of the pre-construction surveys will be documented, maintained at the Facility Site, and provided to the NYSDEC and USACE. The list of KIS in Section 3 will be revised as appropriate based on the species identified to be present during the pre-construction survey.

6 Training

Prior to excavation activities, CWE will train the construction workers in the identification of KIS, and the construction practices described in this plan. The training will be conducted at the Facility Site by an independent, third-party environmental monitor. One or more training sessions may be conducted, depending on the number and availability of workers requiring training. Completion of training will be documented by a training log with the workers' names, signatures, and date of training.

7 Construction Practices

This section describes the best management practices CWE will use during Facility construction.

7.1 Inspection of Fill Sources

Prior to installing gravel or other fill, CWE will have an environmental monitor visit the source site or mine. The monitor will walk the source site and inspect for KIS in the area where mining is to take place and along any paths where dump trucks are planned to travel between the mine and the public roadway. If the mining area and path are found to be free of KIS, the environmental monitor will document this finding in an inspection report that will be signed and dated and maintained at the CWE construction office as proof that the source is free of KIS.

If a CWE inspection finds KIS at the source area or along a path, this finding will be documented in an inspection report, and CWE will not install material from that source, unless a subsequent inspection documents that the source has eliminated KIS.

Inspection certificates documenting a source to be free of KIS will expire nine (9) months after the inspection date.

7.2 Handling of Invasive Species During Construction

To the extent practicable, CWE will avoid construction activities in the Project LOD where pre-construction surveys identify KIS. In addition, grading and erosion and control activities will be conducted in a manner to prevent the spread of KIS. If CWE must conduct construction activities in the Project LOD with KIS, CWE will consult with the environmental monitor on the most appropriate control methods, depending on the species, density and quantity of the KIS encountered and the types and frequency of planned construction activity in such areas.

If herbicide treatments are deemed appropriate, such treatments will be applied by a Certified Commercial Pesticide Applicator, Commercial Pesticide Technician, or Private Pesticide Applicator (i.e., individuals that meet the requirements of 6 NYCRR Part 325, Application of Pesticides) in accordance with DEC approved herbicide measures.

If herbicide treatment is not recommended, CWE will manually or mechanically remove the KIS from the areas where construction activity is to occur. Upon completion, as deemed necessary, CWE will segregate the removed plant material, including the surrounding soil, and transport it. The KIS material may be stored in a designated interim storage container or transported to a designated location containing a disposal container or dumpster designated only for invasive plant material and fill. The dumpster will be placed in an open area and contain a black, fitted cover to promote composting and/or liquefying of the plant material to minimize airborne seed dispersal. CWE will monitor the dumpster to ensure the cover is secure and composting is progressing as expected. Once the material is broken down, CWE will dispose of it at a site approved by the NYSDEC.

If necessary to prevent loss of material during transport, CWE will use trucks with caps or toppers to transport removed KIS material from construction areas to the designated disposal and composting location.

7.3 Equipment Cleaning Procedure

Prior to the introduction of construction equipment into the Project LOD, equipment will be inspected and cleaned to remove soil, vegetation and other material that may contain KIS material. Prior to departure from an area within the Project LOD with known KIS, CWE will inspect and clean earth moving and excavation equipment (motorized or hand powered) of extraneous soil and debris. Equipment inspections will be performed visually and will include walking around and looking on, in, and beneath each piece of equipment. CWE will move the equipment to a decontamination area at the edge of the infected area where it will clean the equipment of debris and soil by mechanical means and washing with a mobile pressure washer (water only), as necessary. If a pressure washer is used for this cleaning, CWE will implement appropriate erosion and sediment control measures to prevent degradation of water quality during the cleaning process. This protocol will help prevent the transport of KIS seeds or propagules (roots, tubers, etc.) to unaffected Regulated Areas. If a pressure washer is used for this cleaning, CWE will implement appropriate erosion and sediment control measures to prevent degradation of water quality during the cleaning process.

If CWE completely removes KIS from an area or installs a vegetative barrier preventing contact with KIS in an area (i.e. fabric and/or stone) prior to commencing construction activities (using the measures discussed in Section 7.2), equipment cleaning procedures when equipment leaves the site will no longer be required in that area.

7.4 Restoration

Following completion of construction activities and temporary impacts to disturbed areas, CWE will restore the area to pre-construction contours and re-vegetate the area using an appropriate native seed mix.

For restoration of land in agricultural use, CWE will select the seed mix in consultation with the landowner. For restoration of land in wetlands and riparian, CWE will use a native wet meadow seed mixture or an equivalent seed mix approved by the NYSDEC or USACE. To the extent practicable, CWE will obtain seed from local sources.

7.5 Handling of Wood Waste

To prevent distribution of invasive insect species that could be at the Facility Site, CWE will follow these practices:

- Except for the circumstances described below, CWE will not transport felled trees outside of the property on which they were cut. The trees will be either mulched and used for stabilization on the property or left on-site for later landowner use.

- Trees can be transported off the property if they are inspected by a trained forester and confirmed to be free of signs of invasive insect species, and subject to DEC Regulations pertaining to the movement of wood products.

- Root material may be transported off-site without inspection.

8 Post-Construction Monitoring for Invasive Species

8.1 Term

The post-construction monitoring (PCM) period will end when NYSDEC approves the Facility Site as having reached "Satisfactory Management" or on the fifth anniversary of the Project's commercial operation, whichever occurs first. Satisfactory Management will be defined as the elimination of the spread of KIS (i.e., a net zero change in the extent) within the Project LOD and, as applicable, the removal of introduced invasive species populations as a result of Project construction. Situations which are outside of CWE's responsibility include: naturally encroaching invasive plant species from adjacent areas (i.e., outside the Project LOD, introduction or spread of invasive species into the Project LOD by others, and inability to treat certain sections of the Project LOD when impractical after reasonable attempts have been made).

8.2 Annual Monitoring

During the PCM period, CWE will monitor areas impacted by Project construction to identify changes in invasive species occurrence (e.g., an increase in coverage or density of each occurrence of species present, inclusive of KIS or any invasive species per Part 575 not identified during pre-construction). This monitoring will consist of a qualified biologist visiting Project LOD during the growing season and visually inspecting the areas for KIS presence and density, in addition to noting new occurrences of invasive species in the LOD which result from Project construction. Other invasive species occurrences linked to spreading vectors (i.e., farm and public roads, rivers and streams, recreational trails, farming activities, etc.) and invasive species populations outside the Project LOD will be documented in the annual report. The biologist will note differences between the densities and locations mapped in the Pre-Construction Survey. Results will be documented in a memo or report that will list or map locations where the KIS presence or density have changed.

8.3 Annual Reports

On or before December 31 of every year during the PCM Term, CWE will submit to the NYSDEC and USACE a post-construction monitoring report detailing the annual monitoring and the status of the KIS and other invasive species occurrences in the Project LOD.

8.4 Adaptive Management Strategy

If CWE identifies increases in the KIS above what was documented in the pre-construction surveys, it will coordinate with NYSDEC and USACE to confirm whether the increase is the result of Project or non-Project related activities. If a new invasive species is documented in the Project LOD, CWE will coordinate with NYSDEC and USACE to confirm whether the increase is the result of Project or non-Project related activities and agree upon an adaptive management strategy.

Annual treatment of any increases in KIS or new invasive species occurrences will generally adhere to best management techniques[1] for the state region of infestation to ensure efficient control of invasive species.

If the increase or new occurrence is determined to be the result of Project activities, CWE will consult with qualified biologists to determine the most efficient means of removing the invasive species from the Project LOD, dispose of the plant material, and restore the area using the same methods as described in this plan for construction.

[1] St. Lawrence PRISM and Finger Lakes PRISM Hobart and William Smith Colleges, Finger Lakes Institute. NYDEC. 2019. "Invasive Species Fact Sheets". Accessed at: https://hws.app.box.com/s/m811c8y1ie8dawyngbzn8nit00qz028f

CASE 19-T-0041 CANISTEO WIND ENERGY LLC
APPENDIX G TO JOINT PROPOSAL

Canisteo Wind – Transmission Line

Unanticipated Discovery Plan

Invenergy

Unanticipated Discovery Plan

Responsibilities

Prior to construction, in the Area of Potential Effect (APE) of the Facility, CWE will identify a Site Manager who will be responsible for daily supervision of construction and who will be expected to be on-site during all phases of construction. The Site Manager will be informed that there is a potential for discovering unrecorded cultural resources in the APE. Examples of cultural resources that may be unearthed in below-surface layers of artifact-bearing sediments include but are not limited to:

- Prehistoric shell middens, lithic and ceramic artifacts;
- Human and animal bone;
- Historic artifacts, for example, green, aqua, or blue glass; lead, copper, and iron items; wheels; and barrels, among others;
- remnants of brick or rock walls of historical structures;
- wooden beams beneath brick walls;
- fragments of boats used as shoreline fill;
- old paved surfaces (e.g., cobble, flagstone, or wooden planking); or
- historical wharf or bulkhead cribbing.

CWE will inform the Site Manager that prehistoric and historical resources identified above are potentially important and may be protected by law.

Standard Procedure

If prehistoric or historical artifacts or features are discovered the following actions will be taken:

1. The Site Manager will immediately suspend all excavation activities within 100 feet of the area of the discovery, and he/she will notify CWE's Project Manager. The discovery area will be flagged or fenced in such a way to prevent continuation of work by construction personnel until resumption of construction has been authorized.

2. The Project Manager will notify the Project Archaeologist or Archaeological Consultant by phone or email.

3. The Project Archaeologist, Project Manager, and Site Manager will discuss a course of action. During this discussion, the Project Archaeologist will gather information as to the significance of the discovered resource. If the Project Archaeologist determines that the resource merits a professional examination, he/ she will go to the Project site as promptly as possible and evaluate the discovery.

4. The Project Archaeologist will assess the discovered resource by personal examination. During this examination the Project Archaeologist may request the Site Manager to use available on-site machinery (e.g., backhoe) to expose a larger section of the resource. This additional exposure will be of limited scope. If, at this point, the Project Archaeologist determines the resource to be insignificant, construction may resume immediately. If the Project Archaeologist judges the resource is potentially significant, construction will remain suspended, the Project Archaeologist will notify the New York State Historic Preservation Office (SHPO), and a determination will be made of the need for additional examination.

5. Depending on what New York SHPO decides, resumption of construction may be allowed, with continued monitoring during construction activities. In such case, the Project Archaeologist will remain on site for the duration of any operations that may expose or damage cultural resources. The Project Archaeologist will have the opportunity to collect further information during construction by means of photographs and various measurements, staying in contact with the New York SHPO throughout the evaluation process. If, at the end of such monitoring, and in consultation with the New York SHPO, the resource is determined to ineligible for NHRP listing, the Project Archaeologist will submit to CWE and New York SHPO a letter documenting the results of the monitoring, descriptions of the investigated resources, and the photographic record.

If, after initial consultations, the New York SHPO determines that the resource requires an archaeological investigation (whether a Phase I survey or Phase II evaluation), the scope, methods, and reporting requirements of this investigation will be determined based on circumstances. If the archaeological resource is pre-contact or Native American in origin the Project Archaeologist will coordinate with SHPO and USACE regarding THPO notification and Nation to Nation dialogue.

CWE will have an archaeologist identified who will be available to evaluate any potentially State/National Register-eligible resources inadvertently discovered during the construction process (the Project Archaeologist or Archaeological Consultant).

Unanticipated Human Remains
The probability of encountering human remains within the Facility site is low. However, if such remains are encountered, as per Certificate Condition 73, all ground disturbing construction related activities within 100 feet of the discovery will cease and reasonable efforts will be made to avoid and protect the remains from additional impact. Additionally, the SHPO Human Remains Discovery Protocol, provided below, will be followed:

> In the event that human remains are encountered during construction or archaeological investigations, the SHPO requires that the following protocol is implemented:
>
> - At all times human remains must be treated with the utmost dignity and respect. Should human remains be encountered work in the general area of the discovery will stop immediately and the location will be immediately secured and protected from damage and disturbance.
> - Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
> - The county coroner and local law enforcement, the SHPO, the appropriate Indian Nations and the involved agency will be notified immediately. The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological. If the remains are archaeological in nature, a bioarchaeologist will confirm the identification as human.
> - If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. The involved agency will consult SHPO and appropriate Native American groups

to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance.

- If human remains are determined to be Euro-American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.

Case 19-T-0041 Canisteo Wind Energy LLC

Appendix H to Joint Proposal

Transmission Line Adjustment Analysis

October 2020

Invenergy

1. Canisteo Wind Transmission Facility

Canisteo Wind Energy LLC (Canisteo Wind or the Applicant) proposes to construct, operate, and maintain a facility to transmit power from the permitted 290.7-megawatt (MW) Canisteo Wind Farm (see Siting Board Case Number 16-F-0205) to the regional power grid (hereinafter the "Transmission Facility"). The Canisteo Wind Farm is a planned wind energy facility in the Towns of Cameron, Canisteo, Greenwood, Jasper, Troupsburg, and West Union in Steuben County, New York. The Transmission Facility will consist of a 34.5/115 kilovolt (kV) collection substation[1] ("Collection Substation") in the Town of Jasper, Steuben County, a 115-kV electric transmission line, and a proposed 115 kV point of interconnection (POI) at NYSEG's Bennett substation ("POI Switchyard") along State Route (SR) 36 in the Town of Hornellsville, Steuben County, New York.

The planned transmission line is approximately 15 miles of new overhead 115 kV transmission line and will pass through the Towns of Jasper, Canisteo, and Hornellsville, and the Village of Canisteo in Steuben County, New York located primarily on leased private land. The line begins at the proposed 34.5/115 kV Canisteo Wind Farm collection substation in the Town of Jasper, and will terminate at the POI Switchyard on property owned by New York State Electric and Gas Corporation (NYSEG), in the existing Bennett Substation.

2. Summary of Changes

On January 14, 2019, Canisteo Wind Energy LLC submitted an Article VII application (Case 19-T-0041) depicting the planned transmission line routed from the Collection Substation in a generally north/northwest direction spanning the Town of Jasper, Canisteo, and Hornellsville. Since this application, Canisteo Wind has assessed certain alternatives to achieve a balance between landowner concerns and those raised by parties, while controlling Project costs and design feasibility. These alternatives are depicted in Figure 1 and the same as those discussed with parties at meetings in January and August of 2020.

On August 3, 2020, the Applicant and the NYS Department of Environmental Conservation (DEC) discussed, among other items, concerns regarding the T-line route near wetlands HR7 and HR8. The Applicant agreed to perform an assessment of potential changes that would minimize impacts to the wetlands. The Applicant has performed additional field surveys, discussed changes with affected landowners, and reviewed potential impacts to the engineering and construction of the line to identify potential alternatives.

The summary below outlines the alternatives assessed for the T-line route near each wetland respectively.

[1] The collection substation will step up electrical voltage generated by the turbines from 34.5 kV to 115 kV. The "low side" of the collection substation (i.e., 34.5 kV) is considered part of the wind energy generating facility and has been permitted under the jurisdiction of Article 10 of the New York Public Service Law (PSL), while the "high side" of the collection substation (i.e., 115 kV) falls under the jurisdiction of Article VII of the PSL.

3. Wetland HR7

On an August 3 conference call, DEC requested that Applicant avoid impacts to HR7 by potentially modifying pole locations in the original proposed route (Option A) to be outside of the delineated wetland boundary. The Applicant agreed to review potential alternatives that would reduce wetland impacts while also satisfying landowner requests that impacts to the current land use be minimized. Since the August 3 discussion, the applicant has had multiple discussions with the landowner and engaged with a 3rd party engineering firm to review feasibility of all potential revised alignments. Additional wetland delineations were conducted on August 26th and 27th to determine the exact extent of HR7 around the transmission line and potential alternatives and to define the wetland community types. The majority of HR7 is comprised of emergent wetland. Based on these delineations, and accounting for landowner requirements for pole locations, an alternative transmission line routing was established. Option B, as shown in Figure 2, strikes the balance between avoiding wetland impacts and land use constraints. This route avoids pole placement within HR7 and will span emergent or scrub-shrub portions and not require forested wetland clearing. CWE will either route traffic around the wetland areas or employ matting during construction to avoid disturbance to these wetland areas during construction.

Though it is expected to increase the overall cost of the line, the applicant proposes proceeding with option B as it will entirely avoid impacts to the delineated wetland and satisfies the landowner's lease requirements.

4. Wetland HR8

On the August 3 conference call, DEC also requested that Applicant avoid impacts to HR8 by adjusting the alignment of the original proposed route (Option A) to be outside of the delineated wetland boundary and regulated adjacent area. The Applicant agreed to review potential alternatives and to refine delineations of the wetland to an expanded area to identify potential pole locations that could be utilized without impacting the wetland while also avoiding the existing State superfund program site (Conrail Site - Site Code: 851002) that is known to be located on the same parcel. Additional wetland delineations were conducted on August 26th and 27th to determine the extent of HR8 around proposed alignments. Two potential alternatives were identified; one using railroad property to the North-East of the original route (Option B) and another remaining on the same parcel but routing further to the South-West (Option C).

The Applicant identified a potential route Option B that would entirely avoid wetland HR8 and the superfund site by running parallel to the existing railroad tracks (see Figure 3). Applicant has reached out to the Norfolk Southern Corporation which operates the railroad on behalf of the owner, PA Lines, and has obtained their technical specifications for utility crossings and co-locations. Based on an initial feasibility analysis it appears there is enough room to locate the transmission line to the south of the tracks and stay on the same parcel. The field delineation of wetlands confirmed this route avoids all impacts on potential wetlands. The route shown in Figure 3 depicts the proposed route that would utilize the railroad property. The route would require the removal of an existing lighting structure located on the property along with reaching agreement on technical and commercial terms with the landowner

A second alternative was identified by DEC that would avoid wetland HR8 by routing the transmission line to the south and west (Option C). However, the landowner has restricted any use of this portion of his property as part of lease negotiations and routing any further to the south and west would encounter numerous constraints including the river, highway and multiple additional landowners.

In addition to the avoidance of wetlands noted above, the Applicant engaged a 3rd party engineering firm to provide proposed pole locations and an estimate of cost. Table 3d below shows the expected pole types and cost for each route respectively.

Table 2. HR8 Cost Analysis

Option	Line Length	Tangent Structures	Running Angle Structures	Dead end Structures	Total Structures Required for Route	Estimated Cost
A	1.3 miles	8	1	1	10	$395,000
B	1.3 miles	9	0	1	10	$345,000
C	1.7 miles	6	7	2	15	$915,000

Due to the need for several additional structures, line length and running angles, Option C would be considerably more expensive than the other identified alternatives. Due to the additional cost and lease restrictions, Option C is not considered to be feasible at this time. Applicant proposes moving forward with Option B to avoid impacts to HR8 and will continue engineering and negotiations with the railroad to obtain an easement on the property. If technical or commercial issues cannot be resolved with the railroad, the Applicant proposes reverting to Option A.

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Appendix I – NYSDEC Supplemental Specifications for Wetlands and Waterbodies

APPENDIX I

NYSDEC SUPPLEMENTAL SPECIFICATIONS FOR WETLANDS AND WATERBODIES

The Specifications set forth below are in addition to, or refinements of, the elements required in the Specifications for the Development of Environmental Management and Construction Plan ("EM&CP Specifications") contained in Appendix E of the Joint Proposal. The applicant must incorporate in the EM&CP all the information specifically described in this Appendix.

Regulated Wetland and Waterbody Construction Specifications

1) Show the extent of clearing and ground disturbance in each wetland, state-regulated wetland adjacent area, and waterbody on the construction drawings.
2) The wetland and waterbodies summary tables required under section (B)(5)(c) of the EM&CP Specifications must include the following information for each wetland and waterbody located within the Project ROW and along access roads: proposed structure/disturbance type; NYSDEC ID; NYSDEC classification code (e.g. , C(T) stream standards, and Class I, II, III, and IV state-regulated wetlands); wetland cover type; wetland functions and values; total area of temporary disturbance (sq. ft.); total area of permanent impact (sq. ft.); conversion of forested and scrub-shrub wetlands (sq. ft.); and stream flow designation (perennial, intermittent, or ephemeral).
3) Provide a narrative description of construction activities within regulated wetlands, state regulated 100-foot wetland adjacent areas, and waterbodies that shows compliance with the following requirements:
    a. Where new permanent access roads are to be constructed through wetlands, a layer

of geotextile fabric or equivalent underlayment must be used;

b. In the event that construction results in an alteration to wetland hydrology, the breach must be immediately sealed, and no further activity may take place until DPS and NYSDEC staff are notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been accepted by DPS and NYSDEC;

c. Measures to minimize soil compaction in wetlands and waterbodies, including the use of temporary matting, low weight to surface area equipment or constructing when soils are frozen;

d. Measures and details demonstrating how work areas will be isolated from flowing streams and standing water in wetlands, including the use of water handling methods such as sandbags, cofferdam, piping or pumping. The details shall include a discussion of:

(i) the management of waters accumulated in the isolated work area to ensure settling and filtering of solids and sediments before water is returned to a wetland or waterbody;

(ii) restoration measures for the isolated work area in streams including the complete removal of the temporary measures, reestablishment of pre-construction contours, and stabilization and seeding immediately following the completion of work;

(iii) the manner by which low flow conditions will be maintained and water depths and velocities similar to undisturbed upstream and downstream reaches will be preserved so that the movement of native aquatic organisms is sustained;

e. Measures to minimize impacts to fish and wildlife during wetland and waterbody construction, including actions to prevent entrapment of fish and wildlife in the work area and, if entrapment occurs, actions to timely and safely move the animals to appropriate undisturbed locations outside the work area; and

f. Procedures to remove all excess fill materials to upland areas at least 50 feet from waterbodies and outside of the state-regulated 100-foot adjacent area.

Wetland and Waterbody Restoration Specifications

Include the following measures and details:

1) Restoration of pre-construction site conditions and stabilization of disturbed wetlands and waterbodies within 48 hours or as soon as practicable after completion of construction;

2) Restoration of disturbed streams as follows:

   a. Stabilization of stream banks above ordinary high-water elevation with natural fiber matting, seeded with an appropriate perennial native riparian seed mix, and mulched with straw within two (2) days of final grading;

   b. Streams must be equal in width, depth, gradient, length, and character as the pre-existing conditions and tie in smoothly to the profile of the stream channel upstream and downstream of the project area. The planform of any stream must not be changed; and

   c. Woody stream bank vegetation must be replaced with ROW compatible native plantings as site conditions and facility design allow;

3) Revegetation of disturbed state-regulated wetlands and 100-foot adjacent areas with native plants. Appropriate native wetland species mixes must be described (e.g., Ernst Wetland Mix (OBL-FACW Perennial Wetland Mix, OBL Wetland Mix, Specialized Wetland Mix

for Shaded OBL-FACW; ROW compatible native plantings; and/or crop seed mixes consistent with existing, continued agricultural use);

4) Monitoring of restoration areas until an 80% cover of native plant species with the appropriate wetland indicator status has been reestablished over all portions of the restored area;

5) If, after two years, monitoring demonstrates that the criteria for restoration (80% native species cover) is not met, the Certificate Holder must submit a Wetland Planting Remedial Plan (WPRP). The WPRP must include an evaluation of the likely reasons for the results, including an analysis of poor survival; a description of corrective actions to ensure a successful restoration; and a schedule for conducting the remedial work. Once accepted by DPS and NYSDEC, the WPRP must be implemented according to an approved schedule.

Wetland Mitigation Plan for State-regulated Wetlands

The Wetland Mitigation Plan, intended to compensate for unavoidable loss of wetland functions and values, must include the following:

1) The creation of compensatory wetlands at appropriate ratios
2) A construction timeline for the mitigation activities;
3) Construction details for meeting all requirements contained in the proposed certificate conditions;
4) Agreed-upon performance standards for determining wetland mitigation success;
5) Provisions for post-construction monitoring for a period of five years after completion of the wetland mitigation;
6) After each agreed-upon monitoring period, the Certificate Holder must take corrective

action for any areas that do not meet the above-referenced performance standards to increase the likelihood of meeting the performance standards after five years; and

7) If, after five years, monitoring demonstrates that the wetland mitigation is still not meeting the established performance standards, the Certificate Holder must submit a Wetland Mitigation Remedial Plan (WMRP). The remedial plan must include an evaluation of the likely reasons for not achieving performance standards, a description of corrective actions to ensure a successful mitigation, and a schedule for conducting the remedial work. Once accepted by DPS and NYSDEC, the WMRP must be implemented according to an approved schedule.

Stream Crossings Specifications

For each new permanent stream crossing of a "protected stream" (C(T) or higher) and for those streams defined under 6 NYCRR Part 608 as "navigable waters of the state", the following must be provided:

a. Detailed plan, profile, and cross-sectional view plans;
b. Drainage area and flow calculations to ensure that the design will safely pass the 2% annual (50-year return) chance storm event; and
c. Location, quantity, and type of fill.

2) Bridges shall be utilized for each new permanent stream crossing and shall span the stream bed and banks. If a bridge is not practicable, an alternatives analysis must be provided, including written justification in the EM&CP for why a bridge is not practicable. If a bridge is deemed not practicable then the following options, in order, shall be considered and evaluated: an open bottom arch culvert; three-sided box culvert

and round/elliptical culvert. NOTE: For stream channels with slopes greater than 3% an open bottom culvert must be used. All culverts shall be designed to:

a. Contain native streambed substrate or equivalent
b. Be a minimum width of 1.25 times the width of the stream bed. The stream bed is measured bank to bank at the ordinary high-water level or edges of terrestrial, rooted vegetation;
c. Include a slope that remains consistent with the slope of the upstream and downstream channel; and
d. Facilitate downstream and upstream passage of aquatic organisms.

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Appendix J - Eagle Impact Avoidance Plan

REDACTED CONFIDENTIAL DOCUMENT

REDACTED

Includes Confidential Threatened and Endangered Species Information

Case 19-T-0041 Joint Proposal

Appendix J Eagle Impact Avoidance Plan

Canisteo Wind Farm ● Steuben County, NY ● Case 16-F-0205

February 2022

Canisteo Wind Energy LLC (CWE) will implement this Eagle Impact Avoidance Plan during the planning and construction of the transmission line that will run from the Collection Substation in the town of Jasper in Steuben County to the Point of Interconnection switchyard at the NYSEG Bennett Substation in the town of Hornellsville in Steuben County. An active bald eagle nest is located [redacted] from the closest point on the centerline of the proposed right-of-way (ROW) of the transmission line, approximately [redacted] from the line's northern terminus. The total length of the 115-kV transmission line route is approximately 14.6 miles, and the right-of-way width will vary between 80-100 ft. For the purposes of distances calculated in this plan the right-of-way is assumed to be the larger width of 100 ft.

1 Introduction

CWE will install transmission infrastructure in a way that avoids disturbance to the identified nest both during construction and operation.

2 Training

All construction will be conducted in accordance with certificate conditions and best management practices. Among other general environmental best practices, all contractors will be trained and informed on all eagle impact avoidance strategies outlined below. Signage/placards will be utilized to identify the limits of disturbance in this area. Signage will not indicate the location of the protected species and will use general language such as "environmentally sensitive area" or "restricted area".

3 Avoidance Measures

CWE has developed this Eagle Impact Avoidance Plan in accordance with the guidance outlined in the New York State Department of Environmental Conservation (NYSDEC) 2016 Conservation Plan for Bald Eagles in New York State. As outlined in the Conservation Plan and summarized in the table below, identified nests without a visual buffer have an expanded recommended buffer of ¼ of a mile. CWE does not anticipate any work to occur within this buffer. The active bald eagle nest is located approximately [redacted] away from the edge of the planned transmission line right-of-way, and [redacted] away from the planned transmission line centerline. Activities during construction that may be visible from the nest include vegetation clearing and trimming, pole installation activities, conductor pulling, and site restoration (see Figure 2).

CWE will also comply with the guidelines established by the Avian Power Line Interaction Committee (APLIC) to address avian collision/electrocution risks on all above-ground electrical lines. NYSDEC's relevant Conservation Plan recommendations are provided below, along with CWE's strategy to avoid impacts.

Includes Confidential Threatened and Endangered Species Information

NYSDEC Conservation Plan for Bald Eagles in NYS: Recommended Buffers Based on Proposed Activity and Site Conditions to Prevent Disturbance

Activity	Restriction Period	Condition/Season	Distance Recommendation*	CWE Approach
New building, roadway or utility construction	Year-round	Nest with visual buffer	No closer than 660' from nest	No construction activity will occur within 600' from the nest.
		Nest without visual buffer	No closer than ¼ mile ** from nest	No construction activity will occur within ¼ mile of the nest.
Logging	Varies seasonally	During breeding season (Jan 01-Sept 30)	No harvest within 660' from nest	CWE will not have to clear any trees within 660' of the eagle nest. The nearest potential tree clearing is proposed near pole 8, approximately [redacted] feet from the nest.
		During wintering period (Dec 01-March 31)	No harvest within ¼ mile from important deep winter roosts	CWE will not have to clear any trees within ¼ mile of the eagle nest.
	Year-round		Avoid removal of overstory trees within 330' from nest	CWE will not have to clear any trees within 330' of the eagle nest.
Aircraft, Unmanned Aerial Vehicles (drones)	Varies seasonally	During breeding season (Jan 1-Sept 30)	¼ mi or 1500' above ground level at nest	CWE will not use any aircraft during the construction of the line. If unmanned aerial vehicles are utilized for surveying or engineering, they will remain at least ¼ mi from the nest.
		During wintering period (Dec 01-March 31)	¼ mi or 1500' above ground level at communal roost sites	
Blasting, Fireworks and other loud noises	Varies seasonally	During breeding season (Jan 01-Sept 30) With visual buffer	No closer than ½ mile from nest	CWE will not use blasting within 1 mile of the nest.
		W/out visual buffer	No closer than 1 mile from nest	
		During wintering period (Dec 1-March 31) With buffer	No closer than ½ mile from communal roost and foraging sites	
		W/out visual buffer	No closer than 1 mile from communal roost and foraging sites	

*may vary based on landscape characteristics and type of activity, **1/4 mile = 1320'

4 Construction Activities including activities that will be undertaken in the vicinity of the nest

4.1 General Construction Sequence:

The following items generally describe the construction sequence that will occur for the proposed transmission line but not all of the listed activities will be conducted within any of the applicable distances recommended in the Conservation Plan:

- Clearing of vegetation where required within the project right-of-way.
- Install erosion and sediment control practices downstream of the project area, prior to disturbance, to prevent sediment transport to offsite areas.
- Install temporary stabilized construction entrance and temporary construction staging area(s). Install silt fence/compost filter sock on downgradient side of entire temporary staging area.
- Install timber mat access routes where required.
- Deliver material to installation locations (poles, insulators, etc.) along the proposed route.
- Begin site work including excavations for transmission line pole foundations.
- Erect transmission line poles.
- Install temporary pulling sites (typically timber matted).
- Pull wires between transmission line structures.
- Remove temporary pull sites and timber mat access routes.
- Complete soil restoration per DEC Stormwater Management Design Manual on all disturbed areas that will be vegetated in their final states.
- Apply seed and mulch to restore vegetation.
- When site has reached final stabilization, remove temporary erosion and sediment control measures.

Of the described activities, no access roads or laydown areas will be located within the applicable recommended distances. Construction equipment and materials to be used in the vicinity of the nest will be transported using the ROW.

4.2 Clearing

CWE will initiate and continue construction of the interconnection line by clearing a right-of-way (ROW) for the length of the transmission line. This will be done with a combination of mechanical and manual methods. This may include removal or trimming of vegetation within the defined ROW to ensure safe access for construction and operation. All construction activities will be conducted in accordance with environmental standards, and where feasible, natural vegetation buffers will be maintained adjacent to streams, rivers, wetlands, and highway crossings. Clearing may take place up to the extent of the ROW, 100 feet wide for the 3-pole sections and 80 feet wide for monopoles.

4.3 Pole installation

Once the site is cleared and before pole excavation begins, erosion and sediment control measures will be installed downstream of construction areas. Poles will be installed via auger and CWE will ensure no hammering or blasting will occur within ½ mile of the nest per the NYSDEC's 2016 Conservation Plan. Poles will be steel with a self-weathering finish. No installation or material delivery will require the use of helicopters.

4.4 Pulling

When the poles are installed, temporary pulling sites will be installed at varying intervals along the length of the line, which will host line pulling equipment to install the transmission line. Once installed, the temporary pull sites will be removed and restored. It is not anticipated that helicopters will be required to install the high voltage lines.

4.5 Noise

Predicted noise levels from construction activities anywhere along the ROW will not exceed 67 dBA when measured 1,000 ft from the source. The loudest construction activity, tree clearing, will occur no closer than 1,800 ft from the nest. A full assessment of potential noise is provided in Appendix 4g of the Article 7 application. Table 4-2 indicates the highest potential noise level during construction.

5 Documentation and Reporting

CWE's designated construction environmental monitors shall maintain records of construction activities and documentation of environmental compliance. In the case of this Plan, should construction along part or all of the depicted line (between poles [redacted] on Figure 2) occur within the bald eagle nesting season (Jan 1 to Sept 30), records will be maintained that document that any disturbance remained within the proposed limits, signage was created and posted, and construction activities were in accordance with this plan.

5.1 Reporting to NYSDEC

CWE shall provide NYSDEC a biweekly summary of the environmental monitor documentation described in Section 4 should construction between (poles [redacted] on Figure 2) occur during the bald eagle nesting season (Jan 1 to Sept 30).

REDACTED

REDACTED

Canisteo Wind Transmission Facility

[redacted]

[redacted]

www.edrdpc.com

Case 19-T-0041 Joint Proposal

Appendix K – Complaint Management Plan

APPENDIX K TO JOINT PROPOSAL

Complaint Management Plan

Canisteo Wind Transmission Line ● Steuben County, NY ● Case 19-T-0041

March 2021

Canisteo Wind Energy LLC (CWE) will implement this complaint management plan during the construction and operation of the Canisteo Wind Farm and the associated transmission facility (the Project).

1 Complaint Submittal

1.1 Methods for Submittal

CWE will use this plan to manage complaints received by any of the following methods:

- Letters or written notes delivered to CWE's O&M Building or construction trailer via U.S. Mail or personal delivery,
- Emails to an email address to be advertised for this purpose,
- Phone messages recorded by calling into a toll-free or local phone number to be advertised for this purpose.
- Phone calls received by CWE personnel at its local development office, O&M building, construction trailer, or the corporate headquarters of its parent company.
- In-person discussions between complainants and CWE personnel (which shall be logged by CWE).
- A completed complaint form, included as Attachment A, that is received by CWE via email, hardcopy, US Mail, or other means.
- Forwarded by a municipal official on behalf of a complainant by any of the foregoing means.

1.2 Contents of Complaints

CWE shall encourage complainants to provide the following information when reporting a complaint:

- Name of complainant,
- Date of complaint,
- Phone number and address of complainant,
- Detailed description of the issue, including date and time of issue, location of issue, and duration of issue.

2 Public Notice of Complaint Management Plan

Prior to the start of construction, CWE will take the steps below to notify residents of this complaint management plan. Notices will include a summary of the plan and methods available to submit

complaints (e.g., mailing address, e-mail address, street address, and toll-free or local telephone numbers) These notices shall be made by:

- Posting in a public location in the town halls and other public locations in the vicinity of the Facility including all document repositories used for the application.
- Posting at the Project's local development office.
- Posting at local Post Offices.
- Posting at the Project's temporary construction management trailer.
- Posting at the Project's O&M building.
- Posting the complete plan on the website for the Project or the parent company,
- Running an ad in one or more newspapers or free advertising papers (e.g., Penny Saver) of general circulation in the vicinity of the Project
- Forwarding to town officials, emergency responders, and other local officials along with a letter encouraging them to inform people that may lodge complaints with them to report their complaints to CWE via one of the methods described in the notice.
- Mailing to host landowners, adjacent landowners within 5,000 feet of the final layout to be constructed, and persons who reside on such property (if different than landowner)
- Confer with the bishop or leader of any Amish communities residing in the Facility Site to determine an effective method for distributing the plan to Amish members of the Project Area.

3 Documentation and Reporting

3.1 Complaint Log

CWE shall maintain records of any complaints received including a complaint log that documents for each new complaint (i) the complainant's name, (ii) date the complaint was recorded, (iii) the nature of the complaint, (iv) date of first response by CWE, (v) status, (vi) and the proposed or agreed upon resolution. Status shall be listed as:

- "Under review", for complaints that CWE has received, but has yet to fully evaluate and identify a reasonable resolution.
- "In discussions", for complaints that CWE has evaluated, identified as legitimate and related to the Project, and is in the process of working with the complainant on a resolution.
- "Resolved", for any complaints that have been resolved.
- "Unresolvable", for any complaints that CWE determines cannot be reasonably resolved (e.g., complaints about the aesthetic value of wind turbines or the value of wind energy).
- "Disputed", for any complaint related to the Project that has been in discussions for 30 days or more and but for which the complainant does not accept the resolution that CWE proposes as reasonable.
- "Unrelated", for any complaints not directly related to the Project (e.g., calls requesting new projects in other sites, calls for jobs, TV complaints that are traced to a cause other than the Project).

3.2 Reporting to DPS

CWE shall provide the New York State Department of Public Service (DPS) a copy of CWE's complaint log monthly during construction and quarterly during operation.

3.3 Reporting to Towns

CWE shall provide town supervisors a copy of CWE's complaint log that includes complaints related to parcels in his or her town. These shall be provided monthly during construction and operations.

4 Initial Responses

Within one (1) business day of receipt of a complaint, CWE shall respond to the complainant to confirm receipt of the complaint and to explain the general steps for complaint evaluation and resolution under this plan.

Within 72 hours of complaint receipt, CWE shall contact the complainant to gather additional information and coordinate a time to meet at the site of the issue to evaluate the issue. If complainant can be reached immediately, CWE will attempt to resolve urgent construction related complaints as soon as possible.

At the initial meeting between the complainant and CWE, CWE will provide a copy of CWE's complaint handling procedure and a copy of the applicable certificate conditions that address the topic of the complaint.

5 Complaint Evaluation and Resolution

CWE will work in good faith to address and resolve complaints as soon as practicable. However, some complaints will take time to evaluate and determine appropriate resolution options. Those complaints which upon investigation are identified as Unresolvable or Unrelated as defined in Paragraph 3.1 above will not be resolvable.

CWE shall determine if its activities are responsible for the complaint and propose to the complainant measures to resolve complaints, including but not limited to complaints related to construction traffic, noise, shadow flicker, dust, and interruption with television/broadcast reception.

CWE will work in good faith to resolve complaints in 30 days, unless circumstances dictate more time is necessary. If resolution is not expected within 30 days, CWE shall inform the complainant that it expects resolution will take longer than 30 days, why it expects it will take longer than 30 days, and CWE's expected timeframe for resolution.

5.1 Additional Provisions for Evaluation of Complaints on Construction Noise

If the complaint location is more than one mile from active construction activity, the complaint will be logged, given a status of "unresolvable", and no further action shall be taken.

If a complaint is made for a location within one mile of active construction activity, then a representative of CWE or its construction contractor will visit the site of the complaint during construction and observe and listen for noise. The representative will try to determine if the noise complaint is due to any equipment not functioning properly. If so, CWE will have this equipment repaired or replaced as soon as practical.

5.2 Additional Provisions for Evaluation of Complaints on Substation Noise

After receiving a complaint on operating noise from the Project substation, CWE shall follow the same provisions as for complaints regarding operating noise from the Project wind turbines.

6 Dispute Resolution and Unresolved Complaints

If CWE determines that a complaint qualifies as “disputed” as defined in Section 3, CWE will (i) consult with DPS and determine whether it is necessary to refer the complaint to a neutral third party and (ii) provide the complainant with notice of this referral to DPS and copies of any documents or summaries that CWE provided to DPS on the topic of the complaint. Examples of a neutral third party are a dispute resolution professional or a retired judge. If referred to a third party, the recommendation of the neutral third party will be provided to CWE, the complainant and DPS. Agreement by either party to refer the complaint to a third party will not constitute a waiver of the rights of either party to pursue other remedies.

Attachment A to Complaint Management Plan

Canisteo Wind Farm

Complaint Form

Name of Person Filing Complaint: _____

Date of Complaint Filing: _____

Phone number to reach person filing complaint: _____

Best Time to Call: _____

Address of Location of Issue: _____

Description of Issue: _____

_____

_____

_____

_____

Date and Time that of Issue Occurrence (if available): _____

Duration of Issue Occurrence (if available): _____