



**Lockport-Batavia Line 112  
Rebuild Project**

**Appendix A**

**Agency Correspondence**

**New York State**  
**Department of Environmental Conservation**  
**New York Natural Heritage Program**

**New York State**  
**Department of Environmental Conservation**  
**Region 8**

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8  
6274 East Avon-Lima Road, Avon, NY 14414-9516  
P: (585) 226-5400 | F: (585) 226-2830  
www.dec.ny.gov

**\*Sent via email\***

January 19, 2021

Ms. Nicole Dutcher  
Fisher Associates  
180 Charlotte Street  
Rochester, New York 14607

Dear Ms. Dutcher:

RE: Endangered and Threatened Species  
Consultation  
Lockport-Batavia # 112 Rebuild Project (Segments 4,  
5 and 7)  
Town of Alabama, Genesee County  
DEC ID No. 0-9999-00232/00001

The New York State Department of Environmental Conservation (DEC) Region 8 office has received and reviewed your letter dated September 15, 2020 and received by DEC on September 16, 2020, requesting concurrence that the proposed activity is unlikely to result in an incidental take of an endangered or threatened species subject to regulation under 6 NYCRR Part 182. Please see the Region 8 DEC comments regarding this project proposal below.

There are multiple threatened and endangered species that breed within the wetlands and grasslands of Tonawanda Wildlife Management Area (WMA), including Black Tern, Least Bittern, Pied-billed Grebe, Sedge Wren, Bald Eagle, and Northern Harrier. Therefore, work on the portion of the line that goes through Tonawanda WMA should avoid the breeding period for grassland and marsh birds which runs from April 23 – August 15<sup>th</sup>. Note, there may be some portions of the area through Tonawanda WMA where the breeding restrictions may not be necessary, but that would need to be discussed with Regional Biologists and a plan developed.

Currently, no known eagle nests are located in the immediate vicinity of the proposed work, so Bald Eagle restriction dates do not apply. However, this could change between now and the start of work if new eagle nests are established. Please consult with our Region 8 DEC office closer to the project start date to discuss any changes in restrictive dates.

The Northern Harrier and Short-eared Owl are known to winter in and around Tonawanda WMA and Iroquois National Wildlife Refuge (NWR) within both grassland and emergent habitat. At this point, DEC biologists do not see a need to impose wintering restrictive dates for the vicinity of the line as it passes through Tonawanda WMA, but closer to the project start date, depending on the most recent available information, DEC will make a decision related to the need for onsite monitoring immediately prior to and during the work period.

For the portion of the work in and around John White WMA, work should be completed outside the breeding dates for grassland birds (April 23 – August 15<sup>th</sup>). In this area, work should not take place during the wintering period (November 1 – April 30<sup>th</sup>) due to consistent presence of both Short-eared owl and Northern Harrier in this large grassland area. Wintering restrictive dates could potentially be shortened slightly on either end of this period if surveys show that these species are not currently using the area. This would need to be approved by DEC Region 8 staff. The ideal work period for John White WMA would be August 16<sup>th</sup> through October 30<sup>th</sup>.

In order to make a final determination staff need to see the plans and construction schedules to allow us to better assess the possible impacts of these species. There is potential for a Part 182 permit to be needed if the proposed project cannot follow the restrictive dates set forth in this letter.

Please note that many areas of the proposed project fall within State regulated freshwater wetlands, so an Article 24 permit may be required. An Article 15 Protection of Waters permit may also be required for disturbances to the bed or banks of any protected streams within the project area.

Should you have any questions regarding this letter, please contact Thomas Walker by phone at (585) 226-5402 or email [thomas.walker@dec.ny.gov](mailto:thomas.walker@dec.ny.gov) . Thank you.

Sincerely,

Robert B. Call  
Deputy Regional Permit Administrator

ecc: Thomas Haley, NYSDEC Regional Permit Administrator- Region 8  
Mike Wasilco, NYSDEC Regional Wildlife Manager- Region 8  
Heidi Kennedy, NYSDEC Wildlife Biologist- Region 8  
David Denk, NYSDEC Regional Permit Administrator- Region 9  
Michelle Woznick, NYSDEC Division of Environmental Permits- Region 9

**New York State**  
**Department of Environmental Conservation**  
**Region 9**

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9  
270 Michigan Avenue, Buffalo, NY 14203-2915  
P: (716) 851-7165 | F: (716) 851-7168  
www.dec.ny.gov

## **SENT VIA EMAIL**

October 7, 2020

Ms. Nicole Dutcher  
Fisher Associates  
180 Charlotte Street  
Rochester, New York 14607

Dear Ms. Dutcher:

### **Endangered and Threatened Species Consultation**

Lockport-Batavia #112 Rebuild Project  
(Segments 1, 2 and 3)  
City of Lockport and Towns of Lockport  
and Royalton  
Niagara County  
DEC ID No. 0-9999-00233/0001

The New York State Department of Environmental Conservation (NYSDEC) Region 9 office has received and reviewed your September 15, 2020 letter requesting concurrence that the proposed activity is unlikely to result in an incidental take of an endangered or threatened species subject to regulation under 6 NYCRR Part 182. This office concurs with this determination for the segments of the project corridor located within Region 9 (Segments 1, 2 and 3) and no Part 182 incidental take permit will be required for the project in these segments.

However, NYSDEC has recorded one Short-eared Owl (*Asio flammeus*) occurrence near the right-of-way along Bulmore Road in the Town of Royalton. To minimize potential impacts to any roosting Short-eared Owls at this location, NYSDEC requests that Niagara Mohawk Power Corporation avoid working on Segment 2 of the project between Gasport Road and Oak Lane from November 1 to March 30. If project activities must occur at this location between these dates and a Short-eared Owl is flushed, the NYSDEC requests that Niagara Mohawk Power Corporation contact the Division of Fish & Wildlife (telephone: 716/851-7010) so that the location of this occurrence can be recorded.


Ms. Nicole Dutcher  
October 7, 2020  
Page 2

Please be advised that Segments 1, 2 and 3 of this project include NYSDEC regulated freshwater wetlands and one regulated waterbody. Therefore, an Article 24 Freshwater Wetland permit and/or an Article 15 Protection of Waters permit may be required for this proposal.

Thank you for providing this office the opportunity to review this project. If you have any questions regarding this letter, please feel free to contact Ms. Michelle Woznick of this office at 716/851-7165.

Sincerely,

David S.  
Denk

 Digitally signed by David S. Denk  
DN: cn=David S. Denk, o=NYS DEC,  
ou=Div. of Env. Permits,  
email=david.denk@dec.ny.gov, c=US  
Date: 2020.10.07 09:10:31 -0400'

David S. Denk  
Regional Permit Administrator

MRW

ecc: Ms. Connie Adams, NYSDEC Division of Fish and Wildlife  
Ms. Jacquie Walters, NYSDEC Division of Fish and Wildlife  
Mr. Thomas Haley, NYSDEC Division of Environmental Permits, Region 8



**New York State**  
**Office of Parks, Recreation and Historic Preservation**



## Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO  
Governor

ERIK KULLESEID  
Commissioner

February 16, 2021

Carol Zimmerlin  
Environmental Analyst  
Fisher Associates  
180 Charlotte Street  
Rochester, NY 14607

Re: USACE  
National Grid - Lockport Batavia #112 Transmission Line Rebuild & Structure  
Replacement Project  
Royalton & Lockport Niagara County and, Alabama, Genesee County, NY  
21PR00596

Dear Carol Zimmerlin:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documents 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.

The SHPO offers the following requests for additional information and comments:

1. Sheet maps 41-46 of the proposed project's Area of Potential Effects (APE) are not represented in the zipped polygon shapefile provided. Please provide a revised zipped polygon (not polyline) shapefile of the entire project's APE, including the new structure/tower locations, newly proposed access roads, and any project-related staging/laydown areas. If necessary, please provide additional sheet maps for any areas not previously provided.
2. It is unclear if the access roads illustrated on the map sheets and in the shapefile are newly proposed access roads or are existing roads. Please clarify which are existing and which will involve new ground-disturbing impacts. It is unclear which access roads are being represented in the photos, and if the entire road is similarly impacted. If it is your contention that the access roads are within previously disturbed soils, please provide documentation to that effect. Please note, the existence of a previously established right-of-way (ROW) does not mean the entire ROW was previously impacted. Please address.
3. Please be aware that the NGD Area 7 Precontact Site (USN 06342.000517), previously identified during the Phase IB Archaeological Survey (11SR60769) conducted for National Grid's Lockport Mortimer Line 111 Rebuild Project (08PR06282), is within/adjacent to the currently proposed project's APE (in the vicinity of Structures 8, 8-1, and 9, and access road). As per the SHPO's December 7, 2011 letter, it was understood that this site would be avoided.

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Carol Zimberlin  
February 16, 2021  
Page 2.

Please use the Cultural Resource Information System (CRIS) token provided in association with this correspondence to submit the requested information to our office.

If you have any questions, I can be reached via e-mail at [Josalyn.Ferguson@parks.ny.gov](mailto:Josalyn.Ferguson@parks.ny.gov).

Sincerely,



Josalyn Ferguson, Ph.D.  
Scientist Archaeology

*via email only*

c.c. Alexandra Page, Tonawanda Seneca Nation Attorney  
c.c. Mary Bitka, National Grid  
c.c. Sean Milne, Fisher Associates  
c.c. Chief Hill & Christine Abrams, Tonawanda Seneca Nation (under separate cover)



**Parks, Recreation,  
and Historic Preservation**

**KATHY HOCHUL**  
Governor

**ERIK KULLESEID**  
Commissioner

March 11, 2022

Sean Milne  
Senior Environmental Project Manager  
Fisher Associates  
180 Charlotte Street  
Rochester, NY 14607

Re: PSC  
National Grid - Lockport Batavia #112 Transmission Line Rebuild & Structure  
Replacement Project  
Royalton & Lockport Niagara County and, Alabama, Genesee County, NY  
21PR00596

Dear Sean Milne:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). This project is being reviewed in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (5NYCRR Part 617).

OPRHP is in receipt of the Site Avoidance Map for NGD Area 7 Site 1 (USN 06342.000517) submitted to our office on March 8, 2022. Based upon our review of this map, we can confirm that the proposed Access Route has been revised and now terminates outside of the site and its corresponding fifty-foot (50-ft) buffer zone. It was OPRHP's understanding, however, that the site and its buffer zone would be avoided entirely. Nonetheless, New Structures 8, and 8-1 are within the site's boundary area, and along with New Structure 9, are in areas not previously covered by an archaeological survey, and thus we cannot confirm that the site does not extend out to these impact areas. When there is a known cultural resource/archaeological site within the project's Area of Potential Effects (APE), the guidance suggesting the locations of new structures within 10-feet of an existing structure do not need to be surveyed is not applicable. Avoidance areas are to be avoided wholly. OPRHP thus continues to recommend that the site, including its 50-ft buffer zone, be avoided, that temporary fencing around the site is erected prior to and throughout construction, and "ENVIRONMENTALLY SENSITIVE – NO ACCESS" signage be affixed to the fence, and be similarly indicated on construction drawings/site plan maps. The fencing can be removed upon completion of construction. If Site avoidance is not feasible, then OPRHP recommends addendum Phase IB testing in all areas of proposed ground disturbance associated with the erection of new towers 8, 8.1, and 9.

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Sean Milne  
March 11, 2022  
Page 2.

Please indicate if the intent is to entirely avoid the NGD Area 7 Site 1 and its buffer zone, or conduct additional Ph. IB testing in the noted areas. If site avoidance is chosen, please submit updated site avoidance plans. If additional Ph. IB testing will be conducted, I will need to provide you with a new CRIS survey token for the addendum report.

If you have any questions, I can be reached at 518.316.1428 or [Josalyn.Ferguson@parks.ny.gov](mailto:Josalyn.Ferguson@parks.ny.gov).

Sincerely,



Josalyn Ferguson, Ph.D.  
Scientist Archaeology

*via email only*

c.c. CRIS contact List



## **OVERHEAD TRANSMISSION STRUCTURE REPLACEMENT ARCHAEOLOGY COMMENTS**

### **Phase IA Archaeological Survey Recommendations/Sensitivity Model**

**Project: National Grid - Lockport Batavia #112 Transmission Line Rebuild & Structure Replacement  
Project**

**PR#: 21PR00596**

**Date: March 30, 2021**

The State Historic Preservation Office/Office of Parks, Recreation and Historic Preservation (SHPO/OPRHP) understands that National Grid is committed to avoiding the previously identified NGD Area 7 Precontact Site (USN 06342.000517) within proximity to Structures 8.1 and 9 and that the proposed access road is being moved to avoid the site. We further understand that aspects of the project's Area of Potential Effects (APE) have not been previously surveyed, including but not limited to ground-disturbing impacts associated with the Transmission Line Rebuild or Relocation, of Structures 141 to 161 (Sheets 30, 31, 33, 34, 36, 37, and 38), and the submission of a formal Site Avoidance Plan Map, including a fifty-foot (50-ft) buffer zone, for NGD Area 7 Precontact (USN 06342.000517).

OPRHP/SHPO, therefore, recommends a Phase IA archaeological survey, including Phase IB testing recommendations. A Phase IA Literature Search and Sensitivity Study is the initial assessment of the overall sensitivity of a project area (*Area of Potential Effects or APE*) for the presence of archaeological sites and Native American sites of religious and cultural significance and functions to guide subsequent field investigations.

The SHPO/OPRHP recommends that Phase IB archaeological testing is warranted for areas of substantial proposed ground disturbance that fall within areas of high archaeological sensitivity. Areas of substantial proposed ground disturbance include but are not necessarily limited to:

- New overhead electrical transmission structures located more than 10 feet from existing overhead electrical transmission structures
- New access roads
- Staging areas
- Trenches three feet or wider
- Areas of grubbing and grading

The SHPO/OPRHP defines areas of high sensitivity, where archaeological sites are most likely to be identified, as those: (1) within 100-meters (328 feet) of permanent water (rivers, streams, wetlands, ponds and lakes and hydric soils) and on slopes equal to or less than 12%; (2) within or near to known archaeological sites; and (3) locations of standing or demolished historic structures. Hydric soils are included to account for areas that may not be currently near water but were in the past. The 100-meter cut-off from water is based on data presented by Robert E. Funk in his 1993 *Archaeological Investigations in the Upper Susquehanna Valley, New York State*. Testing should conform to the 1994 New York Archaeological Council Standards.

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**PR#: 21PR00596**

**Date: March 30, 2021**

**Page 2.**

All other portions of the project area are considered to have low sensitivity for the presence of archaeological sites, including areas of previous ground disturbance, existing access roads, and new overhead electrical transmission structures located within 10 feet of existing overhead electrical transmission structures. The SHPO/OPRHP has no archaeological concerns with low sensitivity areas and does not recommend Phase IB testing in these locations.

Our office does not conduct archaeological surveys. A 36 CFR 61 qualified archaeologist should be retained to conduct this work.

If you have any questions concerning archaeology, please contact Josalyn Ferguson at [Josalyn.Ferguson@parks.ny.gov](mailto:Josalyn.Ferguson@parks.ny.gov).



**Parks, Recreation,  
and Historic Preservation**

**KATHY HOCHUL**  
Governor

**ERIK KULLESEID**  
Commissioner

June 22, 2022

Sean Milne  
Senior Environmental Project Manager  
Fisher Associates  
180 Charlotte Street  
Rochester, NY 14607

Re: PSC  
National Grid - Lockport Batavia #112 Transmission Line Rebuild & Structure  
Replacement Project  
Royalton & Lockport, Niagara County and Alabama, Genesee County, NY  
21PR00596

Dear Sean Milne:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted materials in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6NYCRR Part 617).

OPRHP has reviewed the *Avoidance Plan for NGD Area 7 Site 1 (A06342.000517), Lockport Batavia #112 Rebuild Project, Town of Lockport, Niagara County, New York* prepared by Hartgen Archeological Associates, Inc. (May 2022). Additional shovel testing determined that NGD Area 7 Precontact Site 1 (06342.000517) does not extend to the new locations of Structures 8, 8.1, and 9. National Grid will use matting during construction to protect the archaeological site from construction impacts. We recommend that no further archaeological work is necessary.

Therefore, it is the opinion of the OPRHP that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be Adversely Impacted by this project.

If you have any questions, I can be reached at [Jessica.Schreyer@parks.ny.gov](mailto:Jessica.Schreyer@parks.ny.gov).

Sincerely,

Jessica Schreyer  
Scientist Archaeology



**United States Department of Interior**  
**Fish and Wildlife Service**



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
New York Ecological Services Field Office  
3817 Luker Road  
Cortland, NY 13045-9385

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo/es/section7.htm>

In Reply Refer To:

February 10, 2021

Consultation Code: 05E1NY00-2020-SLI-2413

Event Code: 05E1NY00-2021-E-04473

Project Name: Lockport-Batavia #112 Rebuild Project

Subject: Updated list of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This list can also be used to determine whether listed species may be present for projects without federal agency involvement. New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list.

Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list. If listed, proposed, or candidate species were identified as potentially occurring in the project area, coordination with our office is encouraged. Information on the steps involved with assessing potential impacts from projects can be found at: <http://www.fws.gov/northeast/nyfo/es/section7.htm>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the Services wind

energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**New York Ecological Services Field Office**

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

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## Project Summary

Consultation Code: 05E1NY00-2020-SLI-2413

Event Code: 05E1NY00-2021-E-04473

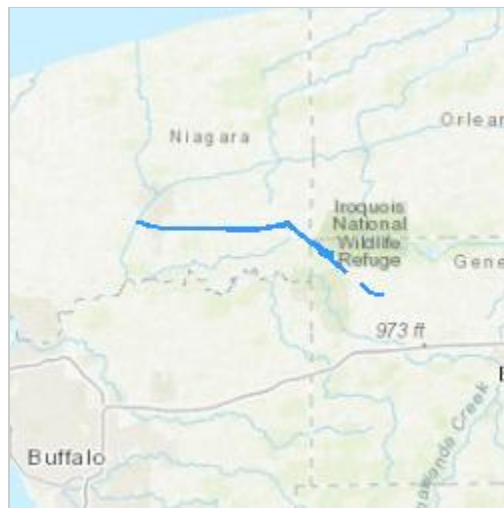
Project Name: Lockport-Batavia #112 Rebuild Project

Project Type: TRANSMISSION LINE

Project Description: National Grid is proposing to replace structures, assets and re-string or pull the line along the Lockport-Batavia #112 Overhead Transmission Line within Niagara and Genesee Counties, New York.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.121349229767816,-78.45716788852015,14z>



Counties: Genesee and Niagara counties, New York

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## Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

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