

ORES Comment No.	DMM Comment No.	DMM Submittal Date	Source Location	Posted on DMM By	Public Comment	ORES Response
1	1	04/21/2022	DMM #21-02480 Public Comments Tab		I am writing in strong opposition to the Application of Horseshoe Solar Energy LLC for a 94-c Permit for Major Renewable Energy Facility because of the extreme threat it poses to cultural heritage. The Tubiolo Report details 500 generations of human habitation on both sides of the Genesee River, site of the proposed HSS installation. The Tubiolo Report was sent electronically and in hard copy format to the SHPO Office on Nov. 2, 2021. SHPO's most recent pronouncement (Feb, 2022) is that HSS must avoid Canawaugus, mitigate the damages done to historic buildings and recommends an archaeological construction monitor for the HSS project. SHPO has never acknowledged the Tubiolo Report. If built as planned, there will be 52 miles of 5 foot deep trenches for underground electrical cables, 40,000-80,000 steel beams pounded 10-20 feet into the ground (depending on the solar panels chosen) to support 600,000 solar panels. Seneca graves discovered on land leased to HSS were buried less than two feet deep. SHPO's recommendation of a construction monitor clearly cannot prevent this cultural genocide.	The Permittee completed a comprehensive evaluation of both archaeological and historical resources which included feedback from the Seneca Nation of Indians, the Tonawanda Seneca Nation and the Tuscarora Nation (DMM Record 4, Exhibit 20: Cultural Resources and accompanying appendices and reports). Based upon this review, the Permittee eliminated solar arrays from the entire area south of State Route 5 in the Town of Caledonia (approximately 150 acres of land) (approximately 20 MW of solar arrays) to completely avoid direct impacts to the former Canawaugus Reservation property, and eliminated the placement of solar arrays on an additional 181 acres of land in the Town of Rush and 725 acres of land in the Town of Caledonia to further avoid and minimize impacts to cultural resources. See Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8 (DMM Record 8) and Appendix G Cultural Resources Avoidance Areas (DMM Record 12). The Office in consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) and State Historic Preservation Office (SHPO) reviewed this information and determined that the proposed Facility: (a) would not result in potential significant adverse impacts to any archaeological resources listed or eligible for listing on the National or State Register of Historic Places; and (b) would result in impacts to historic resources requiring the submission of a Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP) in compliance with 19 NYCRR §900-10.2(g). Accordingly, the Office imposed a Site Specific Condition (SSC) at subpart 6(e) of the Draft Permit requiring submission of the CRAMMP. The CRAMMP will include: measures for the protection of cultural resources (including with respect to proposed underground collection lines); an archaeological construction monitoring plan; a historic preservation mitigation plan; a final unanticipated discovery plan; and the appointment of a qualified cultural resources monitor during the construction phase. Based upon the foregoing, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and required by the Office, would avoid, minimize and mitigate potential significant adverse impacts to cultural resources the maximum extent practicable. For a thorough discussion on how this issue has been addressed, please see DMM Record 52 "Response to Petitions for Party Status, Statement of Issues by the Applicant, and the Statement of Compliance With Local Laws and Regulations" (Staff's Brief) dated May 13, 2022 (pp. 10- 17, 58 - 67).
2a	2	04/22/2022	DMM #21-02480 Public Comments Tab		I am totally against this massive solar project for the following reasons: - using NYS highly productive farmland vs 1000s of acres of unused state land near this site I could go on and on - but the main point is a total lack of trust of leadership in Albany - allowing this project to proceed despite the data and evidence of all the negative impacts and respecting the voice of the Residents and taxpayers of Western NY is deplorable. I am looking forward to the election.	The Office recognizes the importance of conserving highly productive agricultural lands in New York State, and 19 NYCRR 900-2.16 requires all applicants to: (a) comply with New York State Department of Agriculture and Markets (NYSAGM) Guidelines for Solar Energy Projects to the maximum extent practicable; and (b) avoid, minimize and mitigate, to the maximum extent practicable, potential significant adverse impacts to active agricultural lands (i.e., land in active agricultural production in three of the last five years) within NYS Mineral Soil Groups (MSG) 1-4. To avoid and minimize potential significant adverse impacts to agricultural resources having NYS Classification Mineral Soil Groups (MSG) 1-4, the Permittee has voluntarily eliminated solar arrays 181± acres of east of the Genesee River in the Town of Rush, which includes significant areas of prime farmland (MSG 1-4), along with significant portions of 725± acres west of the Genesee River in the Town of Caledonia which include prime farmland (DMM Record 9, Appendix H1 Mineral Soil Group Mapping). Underground collection lines in these areas will comply with NYSAGM Guidelines to the maximum extent practicable and with all Draft Permit (Uniform Standards and Conditions (USCs) and Site Specific Conditions (SSCs). To mitigate impacts to agricultural resources which cannot reasonably be avoided, the Permittee has prepared a detailed Agricultural Integration Plan providing for co-utilization of land for agricultural and renewable energy purposes (DMM Record 5 Appendix 22q). To implement this plan, the Office imposed a SSC at subpart 6(f) of the Draft Permit requiring the submission of a Final Co-Utilization Plan and "Agricultural Integration Plan and Sheep Pasture Rotation and Grazing Plan," consistent with the Permittee's Agricultural Integration Plan in the record (DMM Record 5 Appendix 22q). For additional information regarding agricultural resources and the implementation of the Permittee's proposed Agricultural Integration Plan, please see Exhibit 22: Terrestrial Ecology and Wetlands (DMM Record 4 at Section 22.q Impacts to Agricultural Resources) and Staff's Brief pp. 67- 69 (DMM Record 52). Finally, 19 NYCRR § 900-6.4(s) requires the Permittee to construct the Facility in accordance with NYSAGM Guidelines for Solar Energy Projects, and to hire an independent, third-party agricultural monitor to oversee compliance with agricultural conditions and requirements, including but not limited to the approved Drain Tile Repair Plan (DMM Record 9 Appendix I) and Agricultural Integration Plan (DMM Record 5 Appendix 22q). The qualifications of the agricultural monitor will be reviewed and approved by the Office in consultation with NYSAGM.
2b	2	04/22/2022	DMM #21-02480 Public Comments Tab		- destroying sacred land once occupied by Native Americans having significant historical value - once again another act of disrespect.	This issue is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).

2c	2	04/22/2022	DMM #21-02480 Public Comments Tab		- displacement of wildlife and destruction of flora and fauna required for natural balance	With respect to potential significant adverse impacts on wildlife (including without limitation NYS threatened or endangered (T&E) species), the Permittee conducted comprehensive wildlife and habitat assessments and studied and incorporated the results of these assessments and studies into Exhibit 22: Terrestrial Ecology and Wetlands (DMM Record 4, pp. 22-34) and accompanying appendices. Based upon review of this information, the Office, in consultation with NYSDEC concluded the construction of the Facility would result in an estimated take of 694 acres of wintering occupied habitat for two state-listed grassland bird species and impact to one additional non-avian T&E species. Accordingly, the Office imposed a SSC at subpart 6(g) of the Draft Permit (DMM Record 32) requiring the Permittee to provide two final Net Conservation Benefit Plans for the impacted T&E species. With respect to potential impacts on other non-T&E species, the Office in consultation with NYSDEC concluded that the proposed avoidance, minimization and mitigation measures in the Application Exhibits were sufficient to address these potential impacts. Without limitation to the foregoing, the Permittee is required by 19 NYCRR § 900-6.1 to implement the additional impact avoidance, minimization or mitigation measures identified in the aforementioned Application Exhibit, along with the USCs and compliance requirements identified in the Siting Permit at subparts 5 and 7, respectively, as enforceable permit conditions. Accordingly the Office concluded that the Permittee had avoided, minimized and mitigated potential significant adverse impacts to non-T&E flora and wildlife to the maximum extent practicable. For further information, please see the record in this proceeding, including but not limited to Staff's Brief at pp. 69-71 (DMM Record 52).
2d	2	04/22/2022	DMM #21-02480 Public Comments Tab		- evidence that proves these facilities do not provide the claimed energy yields ---see various NYS websites that track the actual yields which are less than 1% in NYS given weather conditions	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please see the record in this proceeding including but not limited to Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52) and Draft Permit (DMM Record 32 at subparts 2 and 4); see also Exhibit 8 – Redacted, Electric System Production Modelling at Table 4.1, Annual Emissions (Tons) and Table 4.8, Horseshoe Solar Project: Monthly Average and Maximum Generation Summary (DMM Record 10); Exhibit 10 Consistency With Energy Planning Objectives (DMM Record 3).
2e	2	04/22/2022	DMM #21-02480 Public Comments Tab		- data that proves the production and disposal of solar panels has more negative impact on the environment than the claimed benefits of massive solar	The Office's primary concern is the health and safety of all New Yorkers, and the Draft Permit (DMM Record 32) includes Uniform Standards and Conditions (USCs) (subpart 5), Site Specific Conditions (SSCs) (subpart 6), and required compliance filings (subpart 7) for the use and disposal of solar array equipment. See e.g. EL § 94-c(3)(d) and 19 NYCRR subparts 6 and 10. Without limitation, USC 5(I)(a) and 19 NYCRR 900-2.6(f)(5) require the submission of all manufacturer provided information concerning the design, safety and testing information for solar panels and other equipment as part of the Permittee's Final Construction Plans, Profiles and Detail Drawings (SSC 6(a)). SSC 6(k) requires that the Permittee submit and implement an approved Final Decommissioning and Site Restoration Plan in compliance with 19 NYCRR § 900-2.24, to include updated salvage value information. USC 5(VI)(a) requires the Permittee to comply with state laws and regulations in effect at the time of decommissioning regarding the disposal and recycling of components. DMM Record 6, Exhibit 29: Site Restoration and Decommissioning contains the Permittee's decommissioning plan.
2f	2	04/22/2022	DMM #21-02480 Public Comments Tab		- arrogance of leadership in Albany favoring the wealthy donors living downstate who support their political re-election goals and disrespect the "rural " Western NY citizens. It appears they (Albany leaders) think we are a bunch of hicks with a lot of land and we won't know the difference. So they pretend they are listening to our concerns by going through the process and checking the box - but will do what they (their wealthy donors) want anyway.	Comment noted.
2g	2	04/22/2022	DMM #21-02480 Public Comments Tab		- the cost to build the infrastructure to transport this minimal output will be at the expense of all tax payers and will far outweigh the benefit. Why not build in the hills near the Hudson River or Catskills and minimize the transport distance and reduce the cost? Why because you don't want your wealthy donors to be upset by decreasing their property value but again the Western NY hicks won't mind!	Comment noted.
3	3	04/24/2022	DMM #21-02480 Public Comments Tab		I have been a Rush resident for more than 50 years. I live in the vicinity of Horseshoe and a couple other smaller proposed solar farms, and I and several neighbors already have home solar. I bike the trails and kayak the river, and am an environmentalist. I have heard more than enough from the vocal obstructive opponents. I strongly encourage all solar developments, and I wish Horseshoe was larger and sooner.	Comment noted.

4a	4	04/25/2022	DMM #21-02480 Public Comments Tab <u>Duplicate filing by:</u> Emailed to general@ores.ny.gov on 4/25/2022 by John Morelli	Written Public Comments on the Draft Permit for Horseshoe Solar Energy LLC - 21-02480, submitted by the members of Residents United to Save our Hometown ("Residents United"), a citizen group located in the Town of Rush, NY. Residents United to Save our Hometown – April 27, 2022 Office of Renewable Energy Siting Empire State Plaza 240 State Street, P-1 South, J Dock Albany, NY 12242 general@ores.ny.gov RE: Written Public Comments on the Draft Permit for Horseshoe Solar Energy LLC – 21-02480 I. INTRODUCTION When W.H. McIntosh described Rush in his 1877 book The History of Monroe County 1788-1877, he could have been describing present day Rush when he wrote “Limited in area, old in settlement, Rush is rich in farms, and occupied by an intelligent, sober, and religious people, worthy descendants of a superior class of pioneers.” [From RUSH by Sue Bittner Mee, p.8] Residents United to Save our Hometown is an active citizens group numbering in the hundreds of individuals and representatives of o her groups. The number is approximate because some represent groups where the person receiving the communications, passes them on to that group’s members. For example, one member represents the Friends of the Genesee Valley Greenway Park/Trail. That State Trail now follows the Indigenous trail depicted in maps drawn in the very early 1800s by Harrison Follett. The maps are housed in the Rundel Library; he maps and trails are cited in the Tubiolo Report “The Cultural Landscape of the Genesee Valley”. Our membership also includes approximately 12% Indigenous individuals. Again, this is an approximate percentage as individuals may not declare their Indigenous heritage when applying for membership. Some are known to be Indigenous because they sought membership at a meeting of the Tonawanda Historical Society on August 2, 2020 when we were invited guests to the Reservation or at the Tobacco Burning ceremony at Golah on August 11, 2020.	Residents United to Save our Hometown ("RUSH") and the Town of Rush filed a joint Request for Party Status, Issues Statement and Statement of Compliance With Local Laws (Joint Petition) (DMM Record 46), which was directly responded to by Office Staff. For further information, please see the record in his proceeding, including but not limited to Staff's Brief at pp. 19-25 (Genesee Valley Greenway Trail State Park) and 58-67 (Cultural Resources) (DMM Record 52) and ORES comment 1 regarding cultural resources.
4b	4	04/25/2022	DMM #21-02480 Public Comments Tab	Res United supports renewable energy on our roof tops and backyards. Members of our Steering Committee (SC) actively worked on our local solar law that includes 150 acres for large-scale solar. When fully built out, our town will contribute 5 times the average power per town, 9 times the average power per square mile and 28 times he average power per NYS resident. Res United has been able to participate in matters because individual contributions ranging from \$25.00-\$1000.00 supported the initial hiring of attorney Benjamin Wisniewski who filed successful applications for Intervenor Funding and Local Agency Account Funding. We are grateful for that portion of the Article 10 and ORES regulations which created these funding possibilities underwritten by Invenergy LLC.	Comment noted.
4c	4	04/25/2022	DMM #21-02480 Public Comments Tab	This submission to ORES will detail the SC's statement on behalf of our growing membership. We can produce documents that attest to the careful entries on our website and in this submission. We draw the readers' attention to the following portions of this submission: II. RUSH TOWN PLANNING III. CLIMATE CHANGE, AGRICULTURE AND ENERGY IV. HOME RULE AND LOCAL SOLAR LAW V. INDIGENOUS CULTURAL RESOURCES VI. HISTORIC RESOURCES VII. NYS REFUSES TO ACKNOWLEDGE THE TOWN OF RUSH'S EFFORTS	Comment noted.
4d	4	04/25/2022	DMM #21-02480 Public Comments Tab	II. RUSH TOWN PLANNING The Town of Rush has proactively planned and codified the wishes of residents for many years through various reports, regulations and initiatives. A simple lis ing will demonstrate that although Rush is the smallest Town in Monroe County, town residents, numbering 3490 in the 2020 Census, proactively participate in protecting the Town's past as well as its future.	Comment noted.

4e	4	04/25/2022	DMM #21-02480 Public Comments Tab	1967, First Master Plan was conducted by the Monroe County Planning Council. 1980, Master Plan Update was conducted by the Monroe County Department of Planning and the Rush Planning Board. 1991, The Town of Rush's Conservation Board was asked to participate in a Monroe County Environmental Management Council survey- please see below. December, 1994, Innovative Farmland Zoning Report, The Report's goal: protecting and encouraging the continuation of farming by exploring incentive zoning and other means. 2010 Comprehensive Plan. Chapter 2, Inventory of Assets, Cultural Resources notes the Seneca habitation throughout the Town but especially mentions Meadowood and Golah, ps. 2-11, 2-12. Chapter 5, Goals, Environment Goal: "Establish a network of open space areas to balance development, preserve ecologically sensitive areas and conserve vital natural resources" p. 5-2; Agriculture Goal: "Conserve agricultural resources and viable farming areas." p. 5-3 2012 Agricultural and Farmland Protection Plan, The Vision Statement for the Farmland Protection Plan: "The Town of Rush envisions a future by which our community remains farm-friendly and supportive of agriculture by recognizing the important role that farming plays in our quality of life and economic well-being. Our agricultural heritage is reflected in the rural landscape that generations of working family farms helped to create. It is this heritage we choose to protect and preserve. We place a high value on our prime farmlands as irreplaceable resources. We will work in partnership with local farmers and landowners to manage community development in a sustainable manner that respects, protects and preserves our farms and natural resources. . . . We will protect farmland soils and soils of statewide importance." May, 2016—Town of Rush Energy Advisory Committee, A limited listing of goals includes: "reduce use of fossil fuels"; "promote renewable energy solutions"; "safeguard our farmland and small-town rural landscape (e.g. locate solar on unusable or reclaimed land)"; "be responsible stewards of the environment". June, 2016--Recreation and Agricultural Citizens Committee Report, A limited listing of objectives includes "support our community's vision and protect the character of our rural community"; "safeguard the land and its natural resources, wildlife, and open space"; "promote and support activities that connect and support local farmers"; "align recreational activities that connect to our town's historical rural heritage".	The Comprehensive Plans of the Town of Rush, Monroe County and the Town of Caledonia, Livingston County are included in the record at Appendices C3 through C5 (DMM Record 8), and incorporated into the Permittee's overall development plan and evaluation of local zoning laws and ordinances in compliance with Executive Law § 94-c and the Office's regulations at 19 NYCRR Part 900. For further information, please refer to the record in this proceeding, including but not limited to Staff's evaluation of local laws and ordinances and the additional Site Specific Conditions (SSCs) included in subparts 4 and 6, respectively, of the Draft Permit (DMM Record 32), and the discussion of these topics in Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-78 (SSCs) (DMM Record 52). As noted in the record, the application includes an iterative siting process that is cognizant of and sensitive to each host community's long term goals, coupled with significant modifications to the Facility and comprehensive measures proposed by the Permittee to comply with local laws and ordinances and avoid, minimize and mitigate potential significant adverse impacts to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable.
4f	4	04/25/2022	DMM #21-02480 Public Comments Tab	<u>September, 2017—Hamlet of Rush Community Charrette Report</u> PESA REPORT In 1991, the Monroe County Environmental Management Council created the Preservation of Environmentally Sensitive Areas Committee (PESA). The committee requested assistance of various conservation boards, environmental groups gathering information on sites the local groups thought worthy of preservation. Numerous field trips to the areas submitted to the committee resulted in a report titled "Preservation of Environmentally Sensitive Areas in Monroe County". Two areas in Rush were designated as worthy of preservation. The first area, Oak Openings, has been preserved and is now managed by the NYSDEC. A significant portion of the second area, termed Industry-Genesee River Site, is now threatened by HSS. The Industry-Genesee River Site is divided into northern and southern portions by the Lehigh Valley Trail. The southern section "contains the confluence of Honeoye Creek and the Genesee River as well as an oxbow of Honeoye Creek. Together, the confluence and the oxbow provide a very important ecosystem which, combined with the size of the site, provide a valuable environmental corridor" p.16. The Genesee River, Honeoye Creek and "all Class A, B, C, and D streams and their banks should be protected and their banks maintained in such a way as to preserve biological habitat and diversity." p. 7. Almost 30 years ago, the Town of Rush and Monroe County recognized the need to preserve this important environmentally sensitive area, deeming it "Very High Priority" for preservation. If built as planned, Horseshoe Solar will be installed within this southern portion of the Industry-Genesee River Site. Invenegy has chosen the wrong place for HSS.	Potential significant adverse impacts of the proposed Facility on wetlands and waterbodies are addressed in the record of this proceeding. Without limitation, the Permittee conducted a comprehensive delineation of an approximately 5,500 acre area to identify the boundaries of all federal, state and locally regulated wetlands, streams and adjacent areas present within the Facility site. For further information, please refer to Exhibit 22: Terrestrial Ecology and Wetlands and accompanying appendices (DMM Record 4); Exhibit 23: Water Resources and Aquatic Ecology and accompanying appendices (DMM Record 5); and Staff's Brief at pp. 10-17, 71-78 (DMM Record 52). Without limitation, the Permittee will avoid or minimize potential significant adverse impacts to all NYS-regulated streams and waterbodies through the use of Horizontal Direction Drilling (HDD) for the subsurface crossings of the Honeoye Creek and Genesee River. The Office imposed a Site Specific Condition (SSC) at subpart 6(h) of the Draft Permit (DMM Record 32) which requires, pursuant to 19 NYCRR 900-3.2(a)(2) and consistent with 19 NYCRR 900-10.2, that the Permittee provide a Site-Specific Crossing Plan for the subsurface crossings of the Genesee River and Honeoye Creek. As per the USCs at Draft Permit subparts 5(IV)(p)-(r), the Permittee will adhere to additional requirements to further avoid impacts to all surface water and wetland resources during the construction phase. An additional SSC at subpart 6(i) of the Draft Permit requires a final Wetland Restoration and Mitigation Plan to account for two additional temporary wetland impacts identified by the Office during its review. Accordingly, the Office concluded that in siting the Facility the Permittee achieved significant avoidance of NYS-regulated wetlands and waterbodies and will minimize and mitigate potential significant adverse impacts to these resources to the maximum extent practicable.
4g	4	04/25/2022	DMM #21-02480 Public Comments Tab	In the July 1, 2019 letter from Town Historian Sue Mee to EDR (Please see the Historical Resources portion of this submission.), Ms. Mee references Aboriginal Place Names of New York by W.M. Beauchamp as the source of the name Honeoye. The name Honeoye is derived from the Seneca word ha-ne-a-yah. It is said to translate to "lying finger" or "where the finger lies". The name is referenced to the story of a Native American man whose finger was bitten by a rattlesnake. He cut off his finger with a tomahawk. In the 1920 The Archaeological History of New York, Arthur C. Parker writes of Honeoye Creek. The valley of Honeoye creek indeed seems to have been an important water route of all the earlier occupants of the county. There are important sites all along the stream. In the town of Rush are innumerable traces of an earlier occupation and many thousands of arrowheads, together with quantities of other relics, have been picked up by collectors. Important sites are near the mouth of the Honeoye creek at its juncture with the Genesee River. Here the Iroquoian village overlays an earlier Algonkian occupation, while just southward of the Stull farm and along the river are numerous traces of different peoples. Northward on the property of the state industrial school is a village site that yields polished stone implements ... (Parker 1920: 610). The Lehigh Valley Trail runs along Seneca north/south trails detailed by Harrison Follett in maps now at Rundel Library. A map of trails by Follett is dated 1918.	This issue is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).

4h	4	04/25/2022	DMM #21-02480 Public Comments Tab	III. CLIMATE CHANGE, AGRICULTURE & ENERGY The Town of Rush is dedicated to agriculture. In view of the relative paucity of prime farmland in New York State compared to the relative abundance of the same in the Town of Rush(1), it is essential to understand the importance of this fact. □ Only 5% of all the land in New York State is prime farmland. □ In the Town of Rush, 84% of land is prime farmland. □ While the Town of Rush represents only 0.06% of the total land in New York State, it contains over 17 times the average amount of prime farmland per acre for NYS! □ In view of the climate change-related uncertainty for food production in the not-so-distant future, we must zealously preserve and protect our prime farmland. There are so very many better places in NYS to develop solar facilities than on prime farmland in Rush. □ NYS Ag & Markets acknowledges the land east of the Genesee River as valuable, highly productive farmland best suited for rotation crop production and has charged that some of the most productive agricultural land in this area will be no longer function as active rotation cropland in conjunction with construction of HSS facilities, impacting the agricultural viability of the area. It recommends other sites be explored. (NYS DAM Staff PSS Comments April 16, 2019). <i>(1) US Dept. of Agriculture, Soil Conservation Service, "Prime Farmland of New York," August 1979</i>	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2a regarding agricultural resources and Staff's Brief at pp. 10-17 and 67-69 (DMM Record 52).
4i	4	04/25/2022	DMM #21-02480 Public Comments Tab	The Town of Rush is dedicated to solar energy. In May of 2016, New York State published its Model Solar Energy Law to assist communities in NYS to adopt zoning provisions to promote solar energy systems. In 2018, the Town of Rush began developing an addition to its Zoning Law to add a new section for solar energy systems based on the NYS Model Solar Energy Law. The Town Solar Energy Systems Law was passed in March 2019 and later revised in October of that year. □ The intent of the law is to encourage the use of renewable solar energy systems while at the same time protect residential properties, agricultural land, and the Town's rural character. □ Roof-Mounted Solar Energy Systems are permitted in all zoning districts. □ Solar Energy Systems are permitted in the yards of all zoning districts and exempt from site plan review. □ 150 acres of large-scale Solar Energy Systems are permitted on over 90% of all the land in Rush.	Section 120-74 (Solar Energy Systems) of the Town of Rush Zoning Law (Chapter 120 of Town Code) is included in the record and was specifically evaluated by the Permittee in compliance with Executive Law § 94-c(5)(e) and 19 NYCRR § 900-2.25. Without limitation, the Permittee was required to provide the Office with a list of all applicable provisions of local laws and ordinances, and either demonstrate the proposed Facility's compliance therewith, or request that the Office elect not to apply such requirement because compliance therewith would be unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed Facility pursuant to Executive Law § 94-c(5)(e) and 19 NYCRR § 900-2.25. For further information, please see the Permittee's evaluation of compliance with local laws and ordinances and requests for relief (DMM Record 8, Exhibit 31 Local Laws and Ordinances, and Transition Supplement Overview), the Office's findings with respect to local laws and ordinances and any related Site Specific Conditions (SSCs) in subparts 4 and 6 of the Draft Permit, respectively (DMM Record 32), and Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-77 (SSCs). Please also refer to the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56), and the Decision of the Executive Director with respect to these issues, dated December 9, 2022.
4j	4	04/25/2022	DMM #21-02480 Public Comments Tab	The Town of Rush is dedicated to doing its part to meet the statewide energy goal of 6,000 MW of renewable energy. The Town of Rush has committed 150 acres of land to be developed into large scale solar generation facilities. This is in addition to all roof mounted and backyard mounted systems. □ 150 acres of large scale solar will generate almost 40 MW of electricity * This is at least five times what might be expected on a per town basis in NYS! * This is at least nine times what might be expected on a per square mile basis in NYS! * This is at least 28 times what might be expected on a per person basis in NYS!	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
4k	4	04/25/2022	DMM #21-02480 Public Comments Tab	IV. HOME RULE AND LOCAL SOLAR LAW HOME RULE IS GOVERNMENT OF A REGION BY ITS OWN CITIZENS. Article IX, of the NYS Constitution, entitled "Local Government," is commonly referred to as the "Home Rule" article of the Constitution, for it provides both an affirmative grant of power to local governments over their own property and affairs, and restricts the power of the State Legislature from acting in relation to a local government's property, affairs, and government. What Home Rule Means to Our Town of Rush: It means we have a voice in what happens (or doesn't happen) in our Town. Our Town can regulate land use for the "purpose of promoting the health, safety, morals, or the general welfare of the community" (NY Consolidated Laws (Town) § 261). This is an important and meaningful right to the residents of Rush. There are over 70 homes in Rush which will be directly affected by Horseshoe Solar's industrial solar facility. Those citizens who purchased their homes in Rush believed when they bought their homes that home rule would apply and that the Town would regulate land use for the purpose of promoting the health, safety, morals or the general welfare of the community. Most of these homes were zoned Residential R-30 or R-20 at the time of purchase and the residents felt they were adequately protected by these zoning regulations. To further ensure how solar was regulated in their community the residents of Rush worked in conjunction with the elected officials of the Town of Rush, landowners and Residents United to craft the Rush Town Solar Energy Systems Law §120-74 in 2019. The resulting legislation was a compromise between the various constituent groups. It is a true expression of Home Rule and it should not be bypassed by ORES or any other State Agency. Residents United is not anti-solar. Quite the contrary. Under the Town of Rush Solar Law solar installations are allowed in the Town of Rush not to exceed a total of 150 acres under §120-74(H)(3). HSS is requesting that ORES provide relief (in the form of waivers) from numerous subsections of Rush's Solar Law.	The review of the proposed Solar Facility began in the Public Service Law Article 10 process, spanned multiple years, and included an iterative design review with numerous modifications to the project based upon multiple opportunities for public and local municipal engagement. With respect to local laws and ordinances, Executive Law § 94-c(5)(e) provides that a final siting permit may only be issued if the Office makes a finding that the proposed facility, together with any Uniform Standards and Conditions (USCs) and Site Specific Conditions (SSCs), would comply with applicable laws and regulations. Executive Law § 94-c(5)(e) further provides that in making this determination, the Office may elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed facility, it is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed major renewable energy facility (see also 19 NYCRR § 900-2.25(c)). For further information, please see the record in this proceeding, including without limitation the Permittee's evaluation of compliance with local laws and ordinances and requests for relief (DMM Record 8, Exhibit 31 Local Laws and Ordinances, and Transition Supplement Overview), the Office's findings with respect to local laws and ordinances in subpart 4 of the Draft Permit (DMM Record 32), and the discussion of this topic in Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), and 17-55 (local laws and ordinances) (DMM Record 52). In compliance with Executive Law § 94-c(3)(d), the Office has also identified site-specific environmental impacts (if any) that may be caused or contributed to by the proposed Facility and which are unable to be addressed by the Office's USCs at subparts 5 and 7 of the Draft Permit (DMM Record 32). In each such instance, the Office in consultation with the NYSDEC has prepared SSCs to avoid, minimize and mitigate such impacts to the maximum extent practicable, while taking into account Climate Leadership and Community Protection Act (CLCPA) targets and the environmental benefits of the proposed Facility, and also requiring that the application of USCs and SSC achieve a net conservation benefit to any impacted T&E species in compliance with Executive Law § 94-c(3)(d). For further information, please refer to the record in this proceeding, including but not limited to subpart 6 of the Draft Permit (DMM Record 32) and Staff's Brief at pp. 55-78 (DMM Record 52). Following public notice of the Draft Permit, a written public comment period of not less than 60 days, two public comment hearings, and review of petitions for adjudicatory hearings in compliance with Executive Law § 94-c and 19 NYCRR subpart 900-8, Staff's recommended findings were reviewed by two assigned Administrative Law Judges (ALJs) in the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56). Following appeal of the Issues Ruling to the Executive Director, the Executive Director issued a Final Decision dated December 9, 2022.

4l	4	04/25/2022	DMM #21-02480 Public Comments Tab		Some examples of this include, but are not limited to, the following: a. §120-74(H)(5) – Rush’s Solar Law says solar facilities are limited to no more than 12 feet. HSS challenged this requirement and ORES waived this requirement and will allow an overall height of 17 feet. Keep in mind that there are over 70 houses in Rush that may be in the viewshed of this industrial solar facility. b. §120-74(H)(4) – Rush’s Solar Law has location and setback restrictions of 1,000 feet from certain zoning districts or within certain areas of potential sensitivity. This setback requirement was also challenged by HSS. ORES waived this requirement. Only a small amount of the Town is under these particular zoning categories. These areas are heavily populated and that is why Rush’s Solar Law requires a 1,000-foot setback from these zones. c. §120-74(H)(10) – Rush’s Solar Law requires complete screening from adjacent properties. To accomplish this screening, existing vegetation shall be utilized to the fullest extent practicable and/or at least two rows of native evergreen trees or other screening acceptable to the Planning Board which is capable of forming a continuous hedge at least 14 feet in height at planting shall be required and maintained. HSS also challenged this requirement. ORES waived this requirement. There will be no screening required to block the view of 17-foot high solar panels. Additional sections of Rush's Solar Law for which relief is sought by HSS include Sec ion 120-74(H)(3),(6), (8) and (13) some of which appear to be inapplicable based on the current project map. Under Home Rule the Town of Rush's local solar law should not be ignored or waived by ORES or any other State Agency and rather than a wholesale abandonment of the Town Solar Law each element of the Town Solar Law needs to be carefully examined by ORES with a detailed analysis before waiving or ignoring any of the provisions of the law.	This comment is addressed in the record. For further information, please see the responses to comments 4i and 4k and the record in this proceeding, including but not limited to the Office's findings with respect to local laws and ordinances and any related Site Specific Conditions (SSCs) in subparts 4 and 6 of the Draft Permit, respectively (DMM Record 32); Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-77 (SSCs); the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56); and the Decision of the Executive Director.
4m	4	04/25/2022	DMM #21-02480 Public Comments Tab		V. INDIGENOUS CULTURAL RESOURCES Statements published on various NYS DEC websites address the effects of past cultural genocide using the term environmental justice. THE NYS DEC Office of Environmental Justice states: “Environmental Justice is the fair and meaningful treatment of all people, regardless of race, income, national origin or color, with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.” (Environmental Justice) Wi h respect to Indigenous consultation, the NYSDEC states: “Human beings have been present in New York since the end of the last ice age, approximately 12,000 years ago when people followed retreating glaciers to take advantage of the opportunities provided by the newly opened landscapes. These people were the original occupants in New York. Like us, they had goals, desires, traditions and beliefs, which helped them work toge her to form communities. They interacted with one another ... Evidence of their cultural practices and ways of living is present in the archaeology of the state, the historical record, and in the oral tradition of the nations. Indigenous people (Native Americans) are still here.”	The Permittee conducted a thorough evaluation of potential Environmental Justice issues in compliance with 19 NYCRR § 900-2.20 and 6 NYCRR Part 487.10 and determined that the proposed Facility would not result in any significant and adverse disproportionate environmental impacts extending beyond the 0.5 mile radius of the Facility (DMM Record 6, Exhibit 28 Environmental Justice and Figure 28-1). Without limitation, the Permittee's evaluation included consultation with Indigenous Nations and resulted in numerous project modifications to avoid sensitive resources as demonstrated in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
4n	4	04/25/2022	DMM #21-02480 Public Comments Tab		WE SHOULD LISTEN TO THEIR REQUESTS FOR GROUND PENETRATING RADAR AND PHASE II STUDIES WHEREVER GROUND DISTURBANCES WILL OCCUR Tens of thousands of years ago, in the Genesee River Valley, our town’s first residents lived lives that NYS DEC described. The Tubiolo Report “The Cultural Landscape of the Genesee Valley” documents 500 generations of human habitation in the Genesee Valley as people lived along the river, using it for food and transportation only to have their remains and current villages covered by the frequent flooding occurring over centuries. Ground disturbances threaten the evidence of human habitation- graves, pottery and tools, wooden foundations, etc. Residents United asserts that a chronology of events is an effective way to document our concerns for our first residents and our town’s rich cultural history, worthy of protection by NYS as we mutually wish to prevent further cultural genocide of the Seneca and Tuscarora who resided in the town of Rush. We are vitally interested in accuracy but must admit that this archaeological terminology is new to us and outside our expertise. Care was taken in the preparation of this chronology however interpretive errors may occur. But ground disturbances and the implications surrounding ground disturbances are understandable. 11/30/2018 The HSS PIP document on the Art 10 DMM announces a project approximately 2600 acres, all in Caledonia, north of Rtes. 5 & 20 to produce 180MW using 600,000 solar panels. The POI is on leased, reclaimed quarry land (and therefore probably few burial sites or probable village locations). The POI includes a 5200 sq ft operations and maintenance building, a laydown yard and a new substation. The POI therefore requires extensive ground disturbance. This announcement also means that HSS had a viable business plan in Caledonia, a Point of Insertion (POI) to the grid and needed no additional land resources. Extending the proposed industrial solar plant into Rush means disturbing the ground in western NY’s most culturally rich, sensitive Indigenous land.	The Point of Interconnection (POI) substation and associated interconnection improvements are addressed in the record of this proceeding. Without limitation to he record, the Application before the Office included a proposed Point of Interconnection (POI) between the Facility and New York State's electrical transmission system via National Grid's 115-kV Golah Substation, which is located within the Town of Rush adjacent to the Permittee's proposed Collection Substation, POI Switchyard and O&M Building as described in Exhibit 5: Electric System Effects (DMM Record 3). There is no request before this Office for review of an alternative POI in the Town of Caledonia. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17, 46-50 and 58-67 (DMM Record 52). See also the Issues Ruling (DMM Record 56); and the Decision of the Executive Director.

4o	4	04/25/2022	DMM #21-02480 Public Comments Tab	12/12/2018, in an "initial consultation submission", Dr. Josalyn Ferguson of SHPO requests maps and narratives about ground-disturbing impacts, including such things as types of mounting systems, access roads, trenches, etc. from Marguerite Wells, HSS's Director. 2/28/2019 The HSS PIP #2 document on the Art 10 DMM announces a project expansion in Caledonia and Rush of 3800 acres in Caledonia and Rush, still north of Rtes. 5 & 20. POI is now at Golah. No MW or number of panel changes but 1200 more acres. Marguerite Wells, HSS project director, told many people that acreage in Rush was not needed, reinforcing the sufficiency of the business plan announced exclusively for Caledonia. 8/14/19 through 8/16/19 A series of emails concerning "geotechnical boring" between Hanley (Panamerican/HSS), Ferguson with copies to various Panamerican individuals as well as Andrew Davis at DPS. Also discussed is who is supposed to notify the Nations (see entry under 12/20/2020). Geotech: Hanley (8/14/19) Test borings will consist of drilling an approximate 8" diameter hole in the soil to a depth of approximately 20-25 feet below grade. The boring will be backfilled with the auger cuttings upon completion of sampling. Depending on where the soil boring is located, other potential ground disturbances may include driving a rubber track mounted drill rig across fields and down existing farm pathways, or driving a support truck (F-450/550 flatbed) to or nearby the boring location. Also in addition to test borings we are proposing to excavate 16 test pits using a small excavator. The excavation at each location will likely be 2 to 3 feet wide and up to 12 feet deep. The test pits will be backfilled with the soil excavated upon completion. Ferguson to Hanley, cc Davis at DPS (8/16/2019) Our general guidance for Phase I Survey's for Solar Fields states the following (note underline & italics): "Phase IB archaeological testing IS recommended for the locations of proposed roads, facilities, retention ponds/basins, drainage tiles, staging areas, parking lots, utility trenches over a foot wide, drainages over foot wide, and areas of grubbing and grading." The key point being we may have concerns for impacts over a foot wide or larger than a shovel test, and/or requires an excavator. This of course would include trenches and Invenergy's proposed bore units of 2-3 feet in size. Given the extreme sensitivity of this area, the potential for significant cultural deposits and burials, we are standing by our concern for such large impacts prior to the Phase IA assessment being completed." Notification of Nations: Ferguson to Hanley, cc Davis at DPS (8/16/2019) Dr. Ferguson was unable to reach the TSNI. 8/15/19 Ferguson to Davis at DPS Invenergy has expressing an interest in undertaking 8-inch diameter soil bore testing for the above noted project, as well as conducting larger 2-3 feet wide excavator assisted bore-test units. It is unclear to the OPRHP why these tests are needed at this juncture, as we are unaware of other solar projects	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
4p	4	04/25/2022	DMM #21-02480 Public Comments Tab	8/20/2019 Ferguson to TSNI following up on call that morning, Ferguson wrote "this project is already highly contentious." Please note 12/20/2020 request from Abrams to ORES that ORES regulations build in immediate notification of and meetings with the Nations at the pre-applica ion stage. 10/10/2019 The Plans and Proposals Document on the Art 10 DMM announces more acreage added to the project. This added acreage is south of Rtes. 5&20 and includes portions of the Canawaugus Reservation. Again, no change in announced MW or panels. Importantly, the POI is now listed at Golah on sacred land and the former POI, on reclaimed quarry land, is now listed as "Alternate POI". 2/10/2020 SNI President Armstrong wrote to Charles Vandrei, the Historical Preservation Officer of the NYSDEC office "We know there are numerous burials and cemeteries in the area and we do not want their resting places compromised and desecrated. . . The Seneca Nation is committed to clean energy and working with our neighbors. We find it important that our partners do their part to respect all Seneca and Haudenosaunee people living or deceased." Charles Vandrei knows this area extremely well having explored it personally and written about it in the Fall 1987 issue of THE BULLETIN, pages 8-17 "Observations on Seneca Settlement in the Early Historic Period". Certainly Vandrei knows of the "Meadowood arrowhead", a distinctive arrowhead originating from Seneca habitation. The Golah area provided numerous Seneca materials now on display at the Rochester Museum and Science Center in an exhibit called "At the Western Door". Meadowood itself will be discussed in this report when historic cultural building resources are "adversely affected" as recorded in the Bonafide letter to Panamerican noted in 5/5/2020 below. 3/5/2020 Phone call to Dr. Josalyn Ferguson by member of the Res United's Steering Committee notes that Dr. Ferguson is completely familiar with the HSS project as the area is the most archaeologically significant area in upstate NY. Ferguson repeated her concerns about drainage ditches, buried utility lines, pads for electronic equipment, etc. Ferguson reported that Invenergy was trying to reduce the area for archaeological investigations to be done. 4/2020 Seneca Tribal Historical Preservation Officer Dr. Joe Stahlman wrote the NYS Department of Public Service commenting that: [REDACTED] [REDACTED] . . . The Seneca Nation suggests moving forward with a . . . Phase II investigation with a focus on Ground Penetrating Radar and other non-intrusive methods and limited ground disturbance. Seneca Nation does not support any Phase II investigations for areas for panel arrays, perimeter Fencing and utility poles IF their associated posts are driven into the ground. . ."	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).

4q	4	04/25/2022	DMM #21-02480 Public Comments Tab	5/5/2020 Bonafide (SHPO) to Hanley (Panamerican) with copies to DEC and PSC Regarding archaeology, "the New York State Historic Preservation Office ("SHPO") continues to review the complex and highly significant archaeological record associated with this undertaking. We are in contact with the Indian Nations who are consulting parties to this action. It is anticipated that extensive archaeological comments will be developed by both our office and the involved Indian Nations as the Section 106 process progresses. Further archaeological comments will be forwarded as additional phases of assessment are completed." This synopsis does not include the "adverse effects" to historic buildings, barns and town character Bonafide also reported in this letter. 5/7/2020 Ferguson to Davis, Abrams/Cardinal letter. Ferguson to Davis-" The OPRHP requests a narrative describing the type of construction impacts associated with such large-scale solar farms, including the typical length, width and depth of each type of impact, and example photographs of typical solar farm construction techniques and equipment. Please also indicate the typical distance between panel supports, panel rows and the typical number of panels per acre. This can be presented as a separate document or included within the below requested archaeological sensitivity model. The OPRHP requests that an archaeological sensitivity model be developed and submitted for review by OPRHP and the consulting Indian Nations prior to its implementation in the field." Abrams/Cardinal- letter points out inconsistencies in maps of Canawaugus and seeks map of the Genesee Oaks, savannah maintained by the Seneca on Wadsworth property. 10/12/2020 RALLY to Protect the Ancestors on Indigenous Peoples' Day is centered on Canawaugus. Later that day, the Town of Rush issues its first Indigenous Peoples' Day Proclamation. 12/20/2020 Ms. Abrams, on behalf of the Tonawanda Seneca Nations of Indians asked that ORES Regulations include indigenous people within the official definition of "Person" and "require a pre-application meeting when a proposed project lies within the original Aboriginal territory of a recognized Indian Nation." Other changes in regulations were also requested. 1/4/21 Ms. Abrams to Art 10 DMM (and therefore the DEC and DPS) "The Nation writes to express its grave concerns about the Horseshoe Solar Project and Horseshoe Solar LLC's failure to acknowledge the high sensitivity of the Genesee Valley for cultural resources . . . Deficiencies in the Applicant's Phase IA Study, pointed out previously by the Nations, must be remedied prior to completion of the Phase IB Study. . . In addition, although the Applicant has indicated a willingness to consult with the Nation, as the Notice of Deficiencies points out, the Applicant has failed to provide critical information about . . . including ground disturbing activities, which are particularly important to the Nation: . . . alternatives to avoid damage to cultural resources. . . The Nation also notes	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
4r	4	04/25/2022	DMM #21-02480 Public Comments Tab	2/15/2021 President Pagels to Article 10 DMM "This letter reflects the Nation's formal position with respect to Invenergy's proposed approach to cultural resources for the remainder of the Project. As described below, we request that Invenergy engage in targeted Phase II surveying at the sites . . . in order to ensure the protection of the substantial cultural and historic resources located within the Project's area of potential effects ("APE"). The Study [Phase IB] repeatedly and mistakenly implies that only one Seneca village existed near the APE. . . . Statements like these imply that only those village locations which existed during the period of white settlement of the area are relevant to the Seneca's cultural and historic resources. This pattern of ignoring pre-contact Seneca history raises concern that the Study is only paying lip service to Seneca history. Invenergy's oversimplification of Seneca history and village location practices risks misleading the Siting Board. But both the Seneca Nation and your office know better - Haudenosaunee groups would traditionally move their village location every 15-25 years Consequently, Seneca village sites are littered throughout the greater Project area (including within the APE). The archaeologists who informed Invenergy of the static location of one village omitted this essential information about Seneca practices for village location. The Nation also takes issue with the limited nature of Phase 1 B surveying methods for parcels which have indicators (including archeological and historical records) suggesting a village/burial site. Specifically, the Nation takes issue with piles being driven or drilled into the ground at a depth more than 12" at potential village sites, even where the Study's surface finds revealed minimal artifacts. The Nation again expresses its concern that without a Phase II study, these types of pilings are at risk of directly disrupting Seneca burial sites". 3/2021 President Pagels of the Seneca Nation of Indians (SNI) said: The Seneca Nation, like all indigenous people, is inexorably connected to the land. We take seriously our responsibility to safeguard our environment – as well as our history and culture – to preserve our legacy for the seven generations. 6/21/21 Tubiolo summary letter to DPS/Andrew Davis is submitted to Art 10 DMM. 6/30/21 Interim Siting Board Chairman Howard to William McLaughlin on the Art 10 DMM " In finding the application complete, I want to acknowledge the letter dated June 9, 2021, from the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP), which raises certain issues related to determinations made by OPRHP. These issues may appropriately be addressed in the next stage of the case." These "certain issues" involve Indigenous habitation and the constantly remarked upon cultural sensitivity of the Project area. 8/2021 The Tubiolo Report is entered on the Art 10 DMM. Mr. Tubiolo's report "Cultural Landscape of the Genesee Valley" details the cultural sensitivity of subsoils the Horseshoe project as proposed would disturb. The report addresses specifically the findings of Horseshoe's Phase IB investigation reports. Mr. Tubiolo concludes that the Phase IB reports are seriously deficient, not for lack of understanding the density of resources or their context and setting. Horseshoe limited the scope of Panamerican's work by directing that soil samples be taken randomly at a	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).

4s	4	04/25/2022	DMM #21-02480 Public Comments Tab		10/11/2021 The Town of Rush hosts a Teach-In Day discussion of Indigenous history and wampum belt and issues its second Indigenous Peoples' Day Proclamation. 11/2/2021 The Tubiolo Report was delivered electronically and in hard copy to the SHPO Office. To date, SHPO has made no comment on the Tubiolo Report. 11/3/2021 The NYS Board on Electric Generation Siting and the Environment closes the Art 10 Proceeding and makes HSS subject to the provisions of 94-c and ORES. 2/7/2022 Herter (SHPO) to Edick (ORES) "As noted in our June 9, 2021 Adverse Impact determination letter, we recommend the submission of an archaeological construction monitoring plan. . ." SHPO has had the Tubiolo Report for 3 months and has made no comments even though attorney Abraham's transmittal letter on Nov 2, 2021 noted that the Tubiolo Report called into ques ion SHPO's conclusions based on 4 inch sampling and restricted Phase IB analysis. The failure to find more archaeological sites is due to Invenergy's Panamerican's restricted methodology. Although the purpose of this chronology was to make the readers aware of the repeated concerns for ground disturbances in this incredibly rich, archaeologically distinctive area, it also puts the readers on notice that officials at the DEC, PSC and SHPO have been notified by the Nations and The Tubiolo Report that irreparable harm will be done if HSS defiles these leased lands in Rush.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
4t	4	04/25/2022	DMM #21-02480 Public Comments Tab		VI. HISTORICAL RESOURCES Residents United to Save our Hometown has participated fully in efforts to document any threats to our historical resources as a result of HSS' proposal to cross the Genesee River and enter the Town of Rush. As part of the Article 10 proceeding, the Town of Rush received a letter from Environmental Design and Research (EDR) seeking information on the historic resources of the town. The letter was sent to town officials including the town historian in May, 2019. EDR had been hired by Invenergy and one of its subcontractors, Panamerican, to collect information about historic resources visually impacted by Horseshoe Solar. EDR's instructions sought information on any potential visual impacts from Horseshoe Solar and information on historic resources within a 5-mile radius of the HSS-leased properties since the study area for large projects must extend a minimum of 5 miles from the project's facilities (16 CRR-NY 1000.2(ar)). Because the EDR letter was sent to the historians in surrounding towns, a member of the Residents United Steering Committee met with the historians of Rush and Henrietta and talked by phone with the historian of Avon to assist them in understanding what Article 10 involved and why their inventories of historical resources would be important. Ms. Susan Mee, town historian of Rush, sent EDR a 6-page letter listing cemeteries, one-room school houses, churches, Wells barns, museums, recreation areas like Oak Openings, properties on the CRIS (Cultural Resources Information System) database, areas of significance like Meadowood, homes of unique construction such as cobblestones and brick historical homes like Elm Place. At several church meetings of Residents United to Save our Hometown there were signup sheets for individuals to register their homes, roads traveled frequently because the Article 10 regulations allowed such registrations. Again, many locations where there would be visual impacts from HSS were sent to EDR.	Potential impacts to cultural resources are addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52). Potential significant adverse visual impacts to these cultural resources are also addressed in the record. In 2019, the Permittee completed outreach to 131 contacts including state agencies, municipal planning representatives, town and village historians, local and regional chambers of commerce, and local environmental groups resulting in the identification of 282 visually sensitive resources in the 5-mile Visual Study Area. The applicant also identified Landscape Similarity Zones, distance zones, and viewer/user groups using procedures consistent with methodologies developed by the Bureau of Land Management, U.S. Forest Service, U.S. Dept. of Transportation, U.S. Army Corps of Engineers, and the NYSDEC in accordance with the requirements of 16 NYCRR § 1001.24 (Article 10). The Viewshed Impact Assessment (VIA) was performed using a combination of GIS Viewshed analysis and field verification techniques. The VIA was based on the layout presented in the project design drawings dated June 22, 2020, which incorporated proposed clearing and grading changes for the Facility as well as an assumed 17-foot panel height. The Permittee engaged in an iterative siting process which included Facility design changes to avoid, minimize, and mitigate potential visual impacts to the maximum extent practicable. Accordingly, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and uniform and site-specific conditions required by the Office in the Draft Permit, would avoid, minimize and mitigate potential significant adverse impacts to cultural resources (including visual impacts) to the maximum extent practicable. For additional information, please refer to the record in this proceeding, including but not limited to Staff's Brief at pp. 10-17, 56-67 (DMM Record 52); Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8 (DMM Record 8) and Appendix G Cultural Resources Avoidance Areas (DMM Record 12).
4u	4	04/25/2022	DMM #21-02480 Public Comments Tab		Some of the sites sent to EDR deserve special attention because of this highly sensitive archaeological and historical resource area. * Oak Openings refers to a site in Rush characterized as a globally endangered ecosystem, one of only five in NYS. Within these ecosystems are rare plants and thriving wildlife. The Seneca used fire to create these savannas at the end of the 1700s. The Genesee Oaks are mammoth, centuries-old trees achieving this huge size because the fires used by the Senecas created space for the trees to grow without surrounding plant competition. * Meadowood is a 30-acre area bordering the east side of the Genesee River at the extension of Stull Road. Many of the original trees and the formal gardens remain at this site originally built in the 1910s for the Wray family. Noted Rochester architect Claude Bragdon designed and built several houses there- a gentleman's country estate of the time. Charles Wray (1919-1985), past president of the NYS Archaeological Association was a noted archaeologist and scholar of the Seneca. Corbett Sundown, Hawk Clan Sachem Chief of the Seneca, attended Wray's funeral. Local museums often feature Meadowood arrowheads, collected in this area. During Rush's Bicentennial celebration, one of the Bragdon houses was on the house tour. * Elm Place is at the southernmost border of Rush and is the oldest brick house in the Genesee Valley. Colonel William Markham III came to the Genesee Valley in 1789 and was the first permanent European settler of Rush. He became Rush's first supervisor in 1818, holding town meetings in his living room. At this same location, in the early 1700s a settlement of Tuscarora lived having been expelled from the Carolinas during the 1714-1722 period. The Tuscarora joined the Five Nations (Mohawk, Oneida, Onondaga, Cayuga and Seneca) becoming the 6th Nation of the Iroquois League. During Rush's bicentennial celebration, Elm Place was on the house tour. * Cobblestone structures. Cobblestones are a type of building construction that developed, flourished and then ceased within a fifty-year, pre-Civil War period in the Rochester area. More than 90% of the documented cobblestones exist within a 65-mile radius of Rochester. There are 106 within Monroe County and 7 within the Town of Rush. The cobblestone Rush-West Rush Firehouse is not included within the house count; it is next to the 1932 State Education Department Honeoye Valley sign proclaiming that "Three Indian Tribes have Hunted, Fished and Tilled the Soil Here for Thousands of Years" The sign is next to Honeoye Creek and less than a mile from Golah where Honeoye Creek joins the Genesee River. [From Freeman, Cobblestone Quest and Schmidt, Cobblestone Masonry] Historian Mee's letter to EDR was dated July 1, 2019. Nothing was heard in return from EDR, Panamerican or Invenergy.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52). For additional discussion of Oak Openings please refer to Appendix 20a: Expanded Phase 1A Archaeological Investigation for the Proposed Horseshoe Solar Project – REDACTED, dated February 2020 (DMM Record 11). For additional discussion of Meadowood and other historic resources please refer to Appendix 20b: Architectural Survey (DMM Record 4).

4v	4	04/25/2022	DMM #21-02480 Public Comments Tab	On May 5, 2020, John Bonafide, Director of Technical Preservation Services Bureau and Agency Historic Preservation Officer at SHPO wrote to Robert Hanley of Panamerican with copies to Charles Vandrei of the DEC and Andrew Davis of the PSC. The letter included a “Historic Properties List”. There are multiple items of note in the 5/5/2020 letter. First, Bonafide reports receiving Panamerican’s “Two-Mile Visual Architectural Survey”, presumably as a result of EDR’s subcontract. How can this be a two-mile survey in the Article 10 period when the study area for large projects must extend a minimum of 5 miles from the project’s facilities? (16CRR-NY 1000 2(ar) Second, Bonafide used his two-mile survey and determined that “the project area includes 3 properties that are listed in the New York State and National Registers of Historic Places (“Registers”). An additional 36 properties meet the requirements for inclusion in the Registers, 1 property was determined to be not-eligible for inclusion in the Registers and 12 properties lack sufficient information for a determination by this office. One additional property that was previously determined eligible has now been demolished.” Ms. Mee sent EDR six pages of information about properties within five-miles and Residents United sent additional materials as well. That information apparently NEVER reached the appropriate Office of Parks, Recreation and Historic Preservation. That said, cobblestone homes, Elm Place, a Wells barn and Meadowood/Bragdon homes were on the two-mile list. Third, referring to Section 106 regulations, Bonafide defines the term adverse effects: “An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” Referring to The National Park Service’s Bulletin 15, the term setting for a historic property is defined as “Set ing is the physical environment of a historic property... Setting refers to the character of the place in which a property played its historic role.”	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff’s Brief at pp. 10-17 and 58-67 (DMM Record 52). Without limitation, OPRHP/SHPO agreed to a two-mile study area, consistent with its guidelines (see DMM Record 4, OPRHP Information Request dated 4/9/19; DMM Record 4, Appendix 20b: Architectural Survey at 1-2, 3-3; and OPRHP/SHPO “Guidelines for Solar Facility Development Cultural Resources Survey Work” July 30, 2020). Additionally, the Office’s regulations allow a two mile study area around solar facilities pursuant to 19 NYCRR § 900-2.9(b)(1).
4w	4	04/25/2022	DMM #21-02480 Public Comments Tab	Fourth, on the basis of these definitions, and using a truncated two-mile visual list, Bonafide concludes that on the 1260 acres of proposed paneled land: -----“The concern will be the regimented linear industrial-looking rows that may be visible from the National Register listed and eligible properties. -----The project area’s landscape is generally open and agricultural in character. -----This rural setting is an important character-defining feature associated with the identified historic properties. ----- The proposed long regimented rows of black, semi-reflective panels may be highly visible in the areas of the historic resources. -----The large solar arrays with their industrial form and scale will be incongruous with the surrounding natural agricultural setting. -----Potential glare and reflectivity at various times of the day are also of concern.” The summative conclusion is that “our office has found that the undertaking will have adverse effect on historic resources within the project’s area of potential effect.” Dr. Nancy Herter’s final pronouncement on the subject of historic resources was contained in her February 7, 2022 letter to Rudyard Edick of ORES “As noted in our Adverse Impact determination letter, we recommend . . . a historic preservation mitigation plan related to historic buildings.” This analysis was completed while the HSS was within the Article 10 regulations 16CRR-NY 1001.24 (a) (10) which states “proposed mitigation and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, . . .” Vitally important decisions must now be made if 16CRR-NT 1001.24 (a) (10) continues to be the regulation that applies. If ORES has superseded that regulation in the interest of more speedy renewable energy siting, then what is the legislative mandate for the Office of Historic Preservation? Decisions: Meadowood, a documented historic resource, rises above planned areas for installed solar panels; the typography means that in winter, Meadowood is “adversely affected”. Screening will likely also be of little use. Must HSS comply with “relocation or rearranging facility components” as defined by mitigation? What other identified historic resources are also “adversely affected” and how will the definition of mitigation be applied to them? What about all the historic resources sent to EDR from a five-mile radius but apparently not sent to SHPO by Panamerican? How will the “adverse effect” be assessed for them?	This comment is addressed in the record of this proceeding. For further information, please refer to comments 1 and 4t regarding cultural resources (including potential significant adverse visual impacts) and Staff’s Brief at pp. 10-17 and 58-67 (DMM Record 52).

4x	4	04/25/2022	DMM #21-02480 Public Comments Tab	VII. NYS REFUSES TO ACKNOWLEDGE THE TOWN OF RUSH'S EFFORTS! New York State created a series of renewable energy goals, related acts and specialized offices that focused on outcomes but neglected process. ☐ NYS did not provide local municipalities any opportunity to meaningfully participate in these efforts. ☐ NYS instead allied itself with industry to write State policy, override NY Constitutional Home Rule provisions, and forge ahead without any recognition of efforts made by local municipalities to contribute.	Without limitation to the substantial Article 10 record of public outreach and consultation in this case, Executive Law § 94-c and the Office's regulations at 19 NYCRR part 900 require public notice of all Draft Permits (including the Draft Permit issued in this case), with public access to application materials through the Document Matter Management (DMM Record) system and other means at all stages of the review process. Following issuance of the Office's Draft Permit in compliance with EL § 94-c and the Office's regulations at 19 NYCRR § 900-8.3(a), a robust public comment and issues determination procedure was conducted under supervision of the assigned Administrative Law Judges (ALJs). This process included two public comment hearings on April 26, 2022 (virtual) and 27, 2022 (in-person), and a public comment period of not less than 60 days allowing for the submission of written comments through April 28, 2022. Local agencies and community intervenors (including RUSH and the Town of Rush) were also provided the opportunity propose significant and substantive issues for adjudication, seek party status, and apply for funding from the local agency account to defray the costs associated with the preparation of their comments and the required compliance statement. For further information, please refer to the record in this proceeding, including but not limited to Staff's Brief at pp. 3-6 (DMM Record 52). Staff's recommended findings and all requests for party status and an adjudicatory hearing were reviewed by two assigned ALJs, who issued a written Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] dated June 13, 2022 (DMM Record 56). Following appeal of the Issues Ruling to the Executive Director, and the Final Decision of the Executive Director, to the extent a party wishes to challenge a final siting permit, the party may seek judicial review of the Office's final permit decision (i.e., issuance or denial of the final siting permit) as provided in Executive Law § 94-c(5)(g).
4y	4	04/25/2022	DMM #21-02480 Public Comments Tab	☐ NYS and its industrial partners did not adequately consider variations in insolation (i.e., the amount of energy delivered by the sun) across the State. ☐ NYS further diminished Constitutional Home Rule provisions by replacing Article 10 with USC Section 94-c. NYS chose not to evaluate the cumulative environmental impacts of implementing the Climate Leadership and Community Protection Act and the Accelerated Renewable Energy Siting and Community Benefit Act. Respectfully submitted on behalf of the membership of the Rush citizen group, Residents United to Save our Hometown,	Executive Law § 94-c was enacted by the New York State Legislature effective April 3, 2020 to further the Climate Leadership and Community Protection Act (CLCPA), New York State's nation-leading law to combat climate change. EL § 94-c directs the Office to "undertake a coordinated and timely review of proposed major renewable energy facilities to meet the state's renewable energy goals while ensuring the protection of the environment and consideration of all pertinent social, economic, and environmental factors" and requires that the Office consider the proposed Facility's contribution to the State's ability to achieve the CLCPA targets and the environmental benefits. As noted in the record and required in the Draft Permit, the Application includes significant Facility modifications (including without limitation removal of approximately 324 acres of solar arrays from Areas F-H in the Town of Rush and approximately 949 from Areas A-E acres in the Town of Caledonia) (Staff's Brief at pp. 10-17 and Appendix 1 (DMM Record 52)), and comprehensive measures proposed by the Permittee to comply with local laws and ordinances and avoid, minimize and mitigate potential significant adverse impacts of the proposed Facility to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable. For further information, please refer to the record in this proceeding, including but not limited to comments 4j (consistency with NYS energy planning objectives, CLCPA targets and environmental benefits of the proposed Facility) and 4k (local laws and ordinances, including related SSCs); Staff's evaluation of local laws and ordinances and the additional SSCs included in subparts 4 and 6, respectively, of the Draft Permit (DMM Record 32); and the discussion of these topics in Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-78 (SSCs) (DMM Record 52).
5	5	04/26/2022	DMM #21-02480 Public Comments Tab	Imagine an operation to remove a glioblastoma, a cancerous growth in the brain, without the benefit of state-of-the-art tools like Magnetic Resonance Imaging (MRI). The ability to perform an in-depth accurate delineation of the extent and complications of the tumor and perform a potentially life-saving operation with minimal damage, would not be possible. Yet this is the exact analogy of "probing" for human and cultural artifacts buried under deep soil and vegetation proposed by Horseshoe Solar LLC and its contractors. It becomes a charade of "hit-or-miss" analysis. This is not brain-surgery with modern technology, it is trepanation with a stone drill. For Horseshoe Solar to claim to accurately evaluate the subsurface contents of their proposed 4,000 acre project which includes grading and heavy equipment movement, drilling holes ranging from 8" to 20" wide 20 to 30-feet deep, and trenching for cabling and drainage which would cover much of the area by some randomly located test holes, is a travesty. The closest analogy to MRI for surgery would be for Horseshoe Solar LLC to utilize Ground Penetrating Radar which can accurately locate: " Buried buildings and foundations, " Hidden infrastructure (trenches, waterways, cisterns), " Underground tunnels and voids, " Buried military paraphernalia, " Bones, human or otherwise, " Unmarked graves, coffins, other remains, without breaking the surface or requiring any soil displacement. So if avoiding damage to sacred or historic sites of the Indian Nations is a requirement by State Laws, and thus a requirement for Horseshoe Solar LLC, why are they not utilizing this technology?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52). As described in Staff's Brief, cultural resources were investigated in compliance with the New York Archaeological Council (NYAC) "Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (1994)," established OPRHP guidelines and requirements ("Guidelines for Solar Facility Development Cultural Resources Survey Work" July 30, 2020), without limitation.
6a	6	04/27/2022	DMM #21-02480 Public Comments Tab	I oppose the Horseshoe Solar Project massive industrial installation that will pollute and ruin the unceded ancestral Canawaugus Territory of the Senecas. This Territory historical encompasses 3,800 acres. This would be purposeful cultural genocide of the Senecas and transparent NYS is engaging in deliberate racism and harm of the Indigenous people of this land. Move back the point of insertion to quarry land where it was originally planned.	These comments are addressed in the record of this proceeding. For further information, please refer to: comments 1 and 4n regarding cultural resources and the POI substation; comment 4m regarding Environmental Justice; and Staff's Brief at pp. 10-17, 46-50 and 58-67 (DMM Record 52).

6b	6	04/27/2022	DMM #21-02480 Public Comments Tab	Additionally, The Town of Rush residents should not be subjected to this injustice. The Dept. of Ag and Markets has already determined the land is best suited to row crops not pasture nor solar. I don't have faith the Climate Justice Working Group's mission for equitable treatment of marginalized people is its goal since they are aware that this industrial project is being expedited through Section 94-C. I do not want my tax dollars being used in a way where legislation undermines the wellness and stability of our environment and health. Thank you..	These comments are addressed in the record of this proceeding. For further information, please refer to: comment 1 regarding cultural resources; comment 2a regarding protection of agricultural resources; comment 4m regarding Environmental Justice; and Staff's Brief at pp. 10-17 and 58-69 (DMM Record 52).
7a	7	04/26/2022	DMM #21-02480 Public Comments Tab. <u>Duplicate filing from:</u> Emailed to general@ores.ny.gov on 4/26/2022 by John Morelli.	See Attached Comments Office of the Rush Town Supervisor Gerald Kusse April 22, 2022 NYS Office of Renewable Energy Systems Re: Written Public Comments on the Draft Permit for Horseshoe Solar Energy LLC -21-02480 Dear Judge Caruso and Judge Sayre, As Supcrvisor of the Town of Rush I believe it is my responsibility, among many other administrative dutes, to also represent our residents, protect the pastoral character of our town, preserve our rural quality of life and our cultural heritage, protect our agricultural lands and operations, and to encourage and support appropriate development. In its effort to combat and prepare for the impacts of global climate change, New York State has instituted an aggressive plan to shift away from fossil fuel use. The Town of Rush has likewise modified its zoning laws to permit the installation of renewable energy on roofs, in backyards and large-scale applications throughout the Town. The results of its efforts will result in Rush contributing a disproportionately large share of this effort when compared to the other towns, areas, and people of this state. Unfortunately, in its efforts to move us all in this direction, New York State has failed to adequately address essential concerns including preservation of existing commitments to Home Rule and local governance, agriculture, historic heritage, and protection of cultural sensitive areas. For example: In a State in which only 5% of the land is prime farmland, it makes no sense to locate large solar facilides on such valuable land and thus weaken our food resource base which is also threatened by climate change;	The Town of Rush and Residents United to Save our Hometown ("RUSH") filed a joint Request for Party Status, Issues Statement and Statement of Compliance With Local Laws (Joint Petition) (DMM Record 46). For further informa ion, please refer to the record in this proceeding, including without limitation the Office's responses in Staff's Brief (DMM Record 52), and comment 2a above for additional discussion of the Permittee's significant avoidance and minimization measures in he Town of Rush, the Permittee's proposed Agricultural Integration Plan for the mitigation of potential significant adverse impacts to agricultural resources, and the proposed Facility's compliance with NYSAGM Guidelines for Solar Projects and the Office's Uniform Standards and Conditions and Site Specific Conditions for the protection of agricultural resources. Without limitation to this discussion, "[t]he Office's position is that the two uses – farmland and renewable facilities – can coexist and still maintain economic viability, particularly when crop production and prices are affected by severe weather events or the global economy, which can reduce income for farmers and agricultural communities. Further, unlike other types of electrical generation facilities, the Office maintains the position that, at a minimum, the use of cover crops to the extent feasible on facility sites will continue to preserve nutrients on farmland that can later be utilized for agricultural uses. Accordingly, 19 NYCRR 900-2.16(e) addresses concerns about the co-existence of agriculture and renewable energy. The applicant may provide a co-utilization plan including itemization of the investments made to facilitate the agricultural co-utilization." Assessment of Public Comments for 19 NYCRR Part 900 at p. 82. Moreover, the premises will be returned to an agricultural land use at the end of the Facility's useful life, consistent with NYSAGM Guidelines. As stated in the Application, "[r]estoration of active agricultural lands will be completed in accordance with guidelines of the [NYSAGM]," in compliance with the terms of 19 NYCRR 900-6.1(a) and the Permittee's proposed Decommissioning and Site Restoration Plan at Exhibit 29: Site Restoration and Decommissioning (DMM Record 6 at 29-1). Further, the Office imposed a SSC at subpart 6(k) of the Draft Permit (DMM Record 32, pp.65-66) requiring he Permittee to provide and implement its final agricultural co-utilization plan. Accordingly, the Office concluded that the Permittee had avoided, minimized and mitigated potential significant adverse impacts to agricultural resources to the maximum extent practicable.
7b	7	04/26/2022	DMM #21-02480 Public Comments Tab	In a Town, like Rush that has passed its own solar law allowing 150 acres of large scale solar energy fachties on land across the town where it was previously prohibited, it makes no sense to arbitrarily waive requirements of the Town's Solar Energy Systems Law, especially when the applicant, Horseshoe Solar, has provided no specific justification for the requested waivers, and only offers the claim that the Town law is "Unreasonably Burdensome;,"	This comment is addressed in the record of this proceeding. For further information, please see the responses to comments 4i and 4k and the record in this proceeding, including but not limited to the Office's findings with respect to local laws and ordinances and any related Site Specific Conditions (SSCs) in subparts 4 and 6 of the Draft Permit, respectively (DMM Record 32); Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-77 (SSCs); the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56); and the Decision of the Executive Director.
7c	7	04/26/2022	DMM #21-02480 Public Comments Tab	For a Town, like Rush, that will contribute: seven times what might be expected on a per town basis across the 931 towns in NYS, 12 times what might be expected on a per square mile basis in NYS, and over 37 times what might be expected on a per person basis in NYS, for the State to not even recognize the collaborative willingness of the Town to participate and to show some regard for these efforts, departs dramatically from a State that boasts Home Rule and local governance over related areas of control;	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2d regarding consistency with New York State energy planning objectives, CLCPA targets and the environmental benefits of the proposed Facility, and the record in this proceeding, including but not limited to Draft Permit subparts 2 and 4 (DMM Record 32) and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
7d	7	04/26/2022	DMM #21-02480 Public Comments Tab	In a Town that has been identified by Dr. Josalyn Ferguson at SHPO as unique In its Indigenous cultural heritage, rich In its related artifacts, and very meaningful In is spiritual relevance to descendent people, For the State to disregard its commirments over the years to protect and cherish such a legacy-is disheartening, disrespectful, unnecessary and just plain wrong.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
7e	7	04/26/2022	DMM #21-02480 Public Comments Tab	In a public meeting, I asked HSS Manager, Marguerite Wells, if HSS had considered using State owned proprcty in Rush and was told that dealing with the State is just too time consuming. I have twice been a signatory to the Article 10 DMM in which the Rush Town Board objected to the HSS proposal.	Comment noted.
8	8	04/27/2022	DMM #21-02480 Public Comments Tab	I support this project. This project will bring value to the town in tax revenue, will provide clean energy and the horshoe owners will pay farmers to maintain the land alongside letting sheep graze. I do not see the impact of what the opposition is saying.	Comment noted.
9	9	04/27/2022	DMM #21-02480 Public Comments Tab	As a Professor of public health and environmental studies at two colleges/universities in the surrounding area of the project, I write in full support of the proposed Horseshoe solar project. The climate crisis is accelerating and we need to implement renewable energy at scale to move society off of fossil fuels. NYS is far from achieving the goal of 70% renewable generation by 2030, Horseshoe solar is needed. The human health impacts of fossil fuels are a burden to individuals and to the economy as a whole. In NYS, about 3% of our GDP is needed for the health costs associated with air pollution. As Paul Epstein, Director of Health and Global Environment at Harvard Medical School noted, "It's the whole life-cycle of fossil fuels that leads to a trail of injuries, illness, and death." It is only right that communities that have been long sheltered from the pollu ion of fossil fuels play a small role in the transition. The amount of land required for he solar farm is approximately 1% of all the acreage in Rush. And, concerns about view-shed can easily be addressed by requiring the area to be buffered with shrubs. Please act in the best interest of all of NY and allow this solar project to move forward.	Comment noted.

10	10	04/27/2022	DMM #21-02480 Public Comments Tab		We own property in Cohocton, NY and went through a similar review process for erecting windmills in the area. In my view, neither the dire predictions nor the glowing projections were accurate. In reality, it has become part of the landscape, and it provides low cost power without CO2. I believe a solar farm would be both less visible and less noisy than our windmills are. With every year providing a clearer view of the consequences of climate change, it seems reasonable to take every possible approach to reducing it. While all power generation methods have drawbacks, solar seems to be one of the lowest risk approaches with one of the lowest cost per KWH. I support the solar farm proposal for these reasons.	Comment noted.
11	11	04/27/2022	DMM #21-02480 Public Comments Tab		I vehemently oppose the Horseshoe Solar Energy project on the grounds that it constitutes a continuation of cultural genocide against Onödowná'ga:' people. Is it not enough to hear from Onödowná'ga:' people themselves, detailing how they don't want this project? Us settlers have destroyed so much Onödowná'ga:' land already, surely here is some degraded quarry or landfill that can be covered in solar panels if you are so desperate to build more. It is obvious that our society needs to transition away from fossil fuels but pretending solar panels don't have a scarring impact on the earth is laughable. Entire hills and mountains (also on Indigenous land) are levelled to extract the minerals needed for the panels and their batteries, toxic lakes of runoff and slurry seep into the groundwater, and land that could once again support the meadows and forests that Onödowná'ga:' people have tended for hundreds of generations instead will be packed with sleek and silent machines, crowding out all life (both human and non) that once called Canawaugus home. This is not the way forward. This cannot be the way forward. Our settler way of life takes and takes and takes, giving nothing in return. It is dismaying to see how many settlers think they are acting in good faith when they advocate for taking even more. Settler arrogance is responsible for the complete deforestation of the Eastern Woodlands, the draining of the wetlands in order to plant monocultures of grain, the damming of rivers and subsequent destruction of riparian ecosystems, the dredging of creeks into canals (and the separate violence that created the Erie Canal), and at the end of it all settlers are still ignoring Indigenous peoples and doing what we alone think is best. Please change the location, if nothing else.	The comments are addressed in the record. For further information, please refer to comment 1 regarding cultural resources; comment 4m regarding Environmental Justice; and the record in this proceeding, including but not limited to Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
12	12	04/27/2022	DMM #21-02480 Public Comments Tab		DO NOT BUILD UTILITIES ON SACRED INDIGENOUS LANDS.	The comments are addressed in the record. For further information, please refer to comment 1 regarding cultural resources; comment 4m regarding Environmental Justice; and the record in this proceeding, including but not limited to Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
13a	13	04/27/2022	DMM #21-02480 Public Comments Tab		I support the Horseshoe Solar project as long as it is not sited on sacred burial grounds. I support the changes that were made to the project that removed several areas in the original site plan that were sacred or of cultural significance to the Seneca/Tonawanda-Seneca Nations, which were discussed with the Nations and found in archeological surveys.	Comment noted.
13b	13	04/27/2022	DMM #21-02480 Public Comments Tab		As a fourth-generation resident of the Genesee-Finger Lakes Region, I support New York State's Climate Leadership and Community Protection Act and the contribution that Horseshoe Solar will make toward achieving its goals. Horseshoe Solar, once fully functional, will include approximately 600 tracking racks and power more than 43,000 homes annually. It will produce 180 MW of emissions-free, low-cost, renewable solar energy to New York's energy market, which will result in a reduction of over 125,335 tons of carbon dioxide (CO2) emissions.	Comment noted.
13c	13	04/27/2022	DMM #21-02480 Public Comments Tab		Solar development must consider the impact to existing forests, wetlands, and streams. The Horseshoe project will impact approximately 1/4 acre of permanent forest, and there is no permanent impact on either wetlands or streams. As the land is currently cleared, there are no significant impacts anticipated on birds or wildlife as well.	Comment noted.
13d	13	04/27/2022	DMM #21-02480 Public Comments Tab		Prime farmland is always a concern. In the final site plan, over 800 acres of mineral soil groups 1-4 were avoided, leaving approximately 550 acres in the panel area. Much of the area under the panels will be used for grazing sheep. The sheep will rotate through the panel area, eliminating the need for mowing. Instead of paying for traditional fossil-fueled mowing services, Horseshoe will pay farmers to herd their own sheep in the panel area, both an economic and environmental benefit of the project. Other land uses under consideration are bee keeping, natural pollinators, and crops. Additionally, agrivoltaics provides opportunities for individuals interested in farming but without the financial means to buy or lease land to start their farming business.	Comment noted.
13e	13	04/27/2022	DMM #21-02480 Public Comments Tab		Economically, the project estimates increased tax revenues to the towns, counties, and schools of approximately \$540,000 annually. Landowners will receive approximately \$1.26M annually, fire districts approximately \$90k, \$320k in annual sheep grazing contracts, and \$600k in operations & maintenance. Host Community Benefits have yet to be determined but will provide additional economic benefits to these municipalities. Horseshoe Solar will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation and bring \$30 million in local economic investment for our schools, roads and bridges, public safety, and healthcare. From both an economic as well as an environmental perspective, we need to support renewable energy projects that help meet the CLCPA challenge, but are also well planned, engaged in the community, flexible and remain focused on environmental, cultural and social well-being. Horseshoe Solar has been diligent in its planning and adapted their plan significantly over the past 3 years. They have submitted a final plan that will bring NYS closer to the Climate Goals set out in CLCPA, will provide economic stability for farmers and relieve the tax burdens on residents of Caledonia and Rush. It also provides opportunities for individuals to become farmers, which will be critical for the farming industry as existing farmers age. The current use of the land in Rush is for soy and (non-sweet) corn production, which are shipped out for uses other than human consumption. They both are primarily used for animal consumption and biofuels. Only a very small percentage (less than 10%) of soybeans are used for human consumption. Therefore, this land is not currently being used for locally sourced food products. The per-acre benefit of energy sourced from solar panels is 27 times more energy efficient than corn-based biofuels.	Comment noted.

14	14	04/27/2022	DMM #21-02480 Public Comments Tab		I wish to convey my opposition to the Horseshoe Solar Energy project, set to destroy the Onödowá'ga:' site of Canawaugus on unceded Onödowá'ga:' land. Onödowá'ga:' people have made it clear that the current site for the project will be nothing less than an act of cultural genocide, and thus I believe it should be relocated. Pivoting away from fossil fuels is necessary, but we mustn't violate Indigenous sovereignty in the process.	The comment is addressed in the record of this proceeding. Without limitation, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 58-67 (DMM Record 52).
15	15	04/27/2022	DMM #21-02480 Public Comments Tab		I am in support of moving away from fossil fuels, however I think the land of indigenous peoples needs to be considered, and disruption should be avoided if possible.	The comment is addressed in the record of this proceeding. Without limitation, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 58-67 (DMM Record 52).
16a	16	04/27/2022	DMM #21-02480 Public Comments Tab		I oppose the site chosen for this project as well as the nature of the project itself. This project continues to destroy land that the Seneca nation has full rights to. We should not continue cultural genocide against first na ions.	The comment is addressed in the record of this proceeding. Without limitation, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 58-67 (DMM Record 52).
16b	16	04/27/2022	DMM #21-02480 Public Comments Tab		Also, why aren't our representatives enabling individuals and communities to build their own solar projects? Why does the public not maintain control of the basic resources on which we all rely? We all deserve to have control of the entire energy pipeline. We are facing extinction due to climate change. We need solutions that increase community resilience. A more resilient strategy would be for every home to produce energy in a decentralized manner. Having a central solar farm is risky because all it takes is one natural disaster or black swan event to render the farm inoperative. I strongly suggest we think carefully about resilience now before we are hit hard based on the trajectory we are on. Indigenous communities know how to survive. We should listen to them - they have been here far longer than many of us.	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and the associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Draft Permit subparts 2 and 4 (DMM Record 32) and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
17	17	04/28/2022	DMM #21-02480 Public Comments Tab <u>Duplicate filing by:</u> Emailed to general@ores.ny.gov on 4/28/2022 by John Kellen		Please see the attached letter regarding concerns I have about the Horseshoe project. The concerns include the irreparable damage to the setting of my S/NRHP eligible home which is in direct view of the project.	Refer to comment 18a - 18e below for responses to the attached letter.
18a	18	04/28/2022	DMM #21-02480 Public Comments Tab <u>Duplicate filing by:</u> Emailed to general@ores.ny.gov on 4/28/2022 by John Kellen		Please see attachment. To whom it may concern, I am writing to express my concerns with a portion of the Horseshoe Solar Project and the effects it may have on my historic property. I currently own and reside at he John Hugh McNaughton House which is located at 3923 Caledonia Avon Road in Caledonia, NY (NYS Route 5). I am concerned about a specific section of the project which is labeled A1, A2, and A3 on Figure 2-2 on the Facility Layout Map. Section A3 will be both visible and audible from my historic property. My home was built in the early to mid-1800's. It has graced this rural country side for nearly 200 years. The home and farm formerly belonged to the famous 19th century poet and musical composer John Hugh McNaughton (1829-1891). The home, which is referred to as the Babble Brook Homestead, was the setting which inspired much of his famous music and poetry. In fact, his first volume of work was entitled "Babble Brook Songs," which repeatedly described the landscape and wonderful views from this historic site. An article published by a family friend in the late 1800's notes the significance in this home and its landscape: "'Babble Brook,' the poet's home is three miles west of Avon, and within sight of the grounds where once stood the Council House of the Iroquois. The poet's residence was and is a capacious and tasteful dwelling, kept in thorough order, though, on account of being embowered in thick foliage, little of it can be seen over the trees, except the slate roof and chimnies. On the west side of his house are a croquet lawn and a range for rifle practice; in both of these diversions the poet took much delight. In the former recreation, on pleasant afternoons in summer, he was frequently seen engaged along with his wife, two daughters and his guests. It was his delight to entertain kindred spirits and friends at 'Babble Brook.' He was, himself, rarely from home, and the occasions were few indeed when there were not one or more literary visitors at his home in the summer season. Everything about 'Babble Brook' indicated a refined taste." (1) (1) A.J. Abbot, "John Hugh McNaughton," <i>Annual Meeting of the Livingston County Historical Society: Volume 1 (1892) 26-30.</i> The Babble Brook Homestead, rightfully so, meets S/NRHP eligibility criteria based on numerous factors including A, B, and C of the national criteria, citing that it is associated with events that have made a significant contribution to the broad patterns of our history. Also it is associated with the lives of significant persons in or past. Lastly, it embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction. (2) (2) https://www.nps.gov/fpi/Documents/NR_Criteria_Considerations.pdf	Potential impacts to 3923 Caledonia Avon Road and other historical resources were discussed in the Permittee's Architectural Survey (DMM Record 4, Appendix 20b) and reviewed by the OPRHP/SHPO at the time of the Article 10 Application. By letter dated June 9, 2021, the OPRHP/SHPO noted that 3923 Caledonia Avon Road (along with several other properties) were eligible for inclusion in the National and State Registers of Historic Places and recommended that the involved parties proceed with the development of an appropriate Historic Preservation Mitigation Plan relating to historic buildings. Accordingly, the Permittee modified its development plans (including without limitation removal of 41 acres of solar arrays along Caledonia Avon Road (State Route 5), Cold Spring Road and Lowery Road a/k/a the "Gateway to Caledonia") and considered additional measures to avoid, minimize and mitigate potential impacts to cultural resources in the community to the maximum extent practicable (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8). For further information concerning the Permittee's evaluation of these and other potential impacts to cultural resources, please see comments 1 and 4t above and the record in this proceeding, including but not limited to Staff's Brief at pp. 56-67 and Appendix 1 at Area A and Area B (DMM Record 62). Based upon consultation with OPRHP/SHPO and other parties, the Office included Uniform Standards and Conditions (USCs) and Site Specific Conditions (DSCs) in the Draft Permit to avoid, minimize and mitigate potential significant adverse impacts to these and other cultural resources in the community. Without limitation, Executive Law § 94-c and the Office's regulations require that the Permittee's proposed Facility avoid, minimize and mitigate potential significant adverse impacts to 3923 Caledonia Avon Road and other historic resources to the maximum extent practicable. Accordingly, in compliance with Executive Law § 94-c(3)(d), the Office imposed a Site Specific Condition at subpart 6 of the Draft Permit (DMM Record 32) requiring a Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP) including, among other things, a Historic Preservation Mitigation Plan (SSC 6(e)(3)). Additionally, the Office imposed a SSC requiring the submission of a final Visual Impacts Minimization and Mitigation Plan (VIMMP) (SSC 6(b)), including without limitation final Planting Plans for incorporation into the Facility's construction plans by virtue of Uniform Standards and Conditions (USCs) at Draft Permit subpart 5(IV)(l)(2) (DMM Record 32). The final CRAMMP and VIMMP shall be provided as mandatory pre-construction compliance filings, in accordance with additional USCs at Draft Permit subparts 5(l)(a) and (g) and Compliance Requirements at Draft Permit subpart 7(l)(g) and 19 NYCRR § 900-10.1(a). Moreover, pursuant to the Stipulation Regarding Settlement of Contested Issues between the Permittee and the Town of Caledonia entered into on August 19, 2022 (DMM Record 63), views of the proposed Facility will be mitigated by the inclusion of screening plantings that will soften views of the facility and match the visual character of the existing landscape. Specifically, in proximity to 3923 Caledonia Avon Road, there will be a combination of existing vegetation, a Hedgerow In-Fill planting buffer, and a Dense Hedgerow buffer designed to mitigate views of the Facility. Accordingly, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and required by the Office in the Draft Permit, would avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable.

18b	18	04/28/2022	DMM #21-02480 Public Comments Tab	The Babble Brook Homestead is work of art which is part of the rich history of Caledonia and the State of New York. It deserves preservation in its former farmland setting. Unfortunately, section A3 of the will be significantly visible from my home and poses a vast threat to the rural characteristic of the home which is repeatedly described in McNaughton's work. Given the topographic grading in this section, proposed screening options will not properly mitigate the cumulative effect of 1000s of solar panel surrounding this and other historic properties in this particular section of the Horseshoe project. The contrast between the rural setting of this home and hundreds of acres of linear commercial solar panels will be inconceivable. Two additional S/NRHP eligible locations will also be grossly affected by sections A1, A2, and A3. These include the Grave of the Unknown Soldier from the War of 1812. This is a gravesite and monument dedicated to a fallen US Soldier. Due to the terrain in the area Sections A1, A2, and A3 will be fully visible from the gravesite despite the best efforts to mitigate it with screening. This monument and gravesite deserves protection from commercial development. The rolling countryside views have been preserved up until this point to provide a fitting dedication and memorial to a fallen soldier. By placing four fields worth of solar panels directly behind this grave you are dishonoring our fallen hero who deserve a scenic, peaceful resting place, not a fully visible and audible commercial solar development. Interestingly this memorial is engraved with the lyrics from John McNaughton's famous song, "Faded Coat of Blue." These two historical sites are connected in history and will soon be divided by an enormous commercial solar field. The last historical location affected by sections A1, A2, and A3 of the Horseshoe project is a fully restored Wells Barn located at 3956 Caledonia Avon Rd. in Caledonia, NY (NYS Route 5). This barn is located within a half mile of my home and the gravesite. This barn and home are also S/NRHP eligible. This is a historical barn designed by the famous architect John Talcott Wells Senior. Less than 50 of these barns are thought to be still standing. Obviously the nearby rolling farm lands contribute to the overall appearance and aesthetics of this rural historical farm known as Oak Knolls. Section A3 would be visible and audible from this location despite screening efforts.	With regard to potential significant adverse visual impacts to historic resources, the Permittee conducted a comprehensive investigation of visual impacts and incorporated the results of these assessments and studies into Exhibit 24: Visual Impacts (DMM Record 6) and accompanying appendices (DMM Record 7). As noted in comments 1 and 4t (incorporated herein by reference), this analysis included, but was not limited to, outreach to 131 contacts including state agencies, municipal planning representatives, town and village historians, local and regional chambers of commerce, and local environmental groups resul ing in the identification of 282 visually sensitive resources in the 5-mile Visual Study Area. To avoid, minimize and mitigate potential significant visual impacts to historic resources to the maximum extent practicable, the Permittee modified its Facility design (including without limitation removal of 41 acres of solar arrays along Caledonia Avon Road (State Route 5), Cold Spring Road and Lowery Road a/k/a the "Gateway to Caledonia") and considered additional measures to avoid, minimize and mitigate potential impacts to cultural resources in the community to the maximum extent practicable (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8). In compliance with Executive Law § 94-c(3)(d), the Office imposed the Site Specific Conditions (SSCs) described in comment 18a (incorporated herein by reference), requiring the submission of, among other things, a final Visual Impacts Minimization and Mitigation Plan (VIMMP) with updated Screen Planting Plans, and a Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP), as described in SSC 6(e) and 6(b) of the Draft Permit, respectively (DMM Record 32). The Office will review these filings at he pre-construction compliance filing review stage to ensure that visual impacts are adequately addressed and hat offsite views to the Facility are mitigated to the maximum extent practicable. Moreover, pursuant to the Stipulation Regarding Settlement of Contested Issues between the Permittee and the Town of Caledonia entered into a Stipulation Regarding Settlement of Contested Issues on August 19, 2022 (DMM Record 63) (also noted in comment 18a above), views of the proposed Facility will be mitigated by the inclusion of screening plantings that will soften views of the facility and match the visual character of the existing landscape in proximity to: 1) the Babble Brook Homestead at 3923 Caledonia Avon Road; 2) the Grave of the Unknown Soldier at Caledonia Avon Road; and 3) the Oak Knolls Manor, Wells Barn & Greek Revival residence at 3956 Caledonia Avon Road. Without limitation, these measures will include a combination of existing vegetation, a Hedgerow In-Fill planting buffer, a Roadside Enhancement buffer, and a Dense Hedgerow buffer designed to mitigate views and reduce the visual contrast of sections A1, A2, and A3 of the proposed facility with the surrounding landscape. Accordingly, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and required by the Office in the Draft Permit, would avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable.
18c	18	04/28/2022	DMM #21-02480 Public Comments Tab	Section 106 of the National Historic Presevation Act, criteria for adverse effect is defined as, "when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association." Examples of adverse effects are later defined in 36 CRP Part 800.5(2)(v) which states, "adverse effects on historic properties include, but are not limited introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features." Surely the placement of thousands of 17 foot tall solar panels within view of three hisotric propteries would degradre the rural setting which plays a vital role in their preservation and hisorty. This was reiterated in the May 5th, 2020 letter submitted to DPS by the New York State Division for Historic Preservation which reads: "Of particular concern with large-scale commercial solar facilities is their impact on the "setting" associated with the identified historic resources. The National Park Service's Bulletin 15: How to Apply the National Register Criteria for Evaluation provides the following definition for the setting of historic property: "Setting is the physical environment of a historic property... Setting refers to the character of the place in which a property played its historic role." (NPSB 15, page 45) The proposed undertaking will include 600,000 solar panels on tracking racks and divided into several large array sections. The arrays will be set within a 3,857-acre project area. The arrays themselves will physically occupy and visually alter roughly 1,260 of those acres. The rows are relatively low in profile reaching at the upper edge less than 10-15 feet in height from the ground and will "track" the sun throughout the day. However, he concern will be the regimented linear industrial-looking rows that may be visible from the National Register listed and eligible properties. The project area's landscape is generally open and agricultural in character. This rural setting is an important character-defining feature associated with the identified historic properties. The proposed long regimented rows of black, semi-reflective panels may be highly visible in the areas of he historic resources. We found that the large solar arrays with their industrial form and scale will be incongruous with the surrounding natural agricultural setting. In addition, potential glare and reflectivity at various times of the day are also of concern. As such, our office has found that the undertaking will have adverse effect on historic resources within the project's area of potential effect." Per section 3-2 of the Panamerican Consulatants Two Mile Visual APE report, provided by Invenergy, states, "No direct impacts to historic-architectural resources are anticipated as part of Facility construction or operation." This seems to directly contradict the fact the facility will be in full view and fully audible from three NRHP eligible locations. It also directly contradicts the statement from New York State Division for Historic Preservation which also recommneded a Section 106 federal review of the application in their letter. To my knowledge this was never completed.	To protect the public health and safety as well as property rights, the Permittee is required to comply with all noise limitations and compliance requirements in 19 NYCRR Part 900 applicable to the construction and operation of the proposed Facility. During the Article 10 review, the Permittee conducted a comprehensive pre-construction noise analysis and provided the results of this study in Exhibit 19 (DMM Record 3) and accompanying appendices. Upon filing of its transfer application pursuant to Executive Law § 94-c, the Permittee updated its Pre-Construction Noise Analysis to include additional details required by the Office's regulations at 19 NYCRR § 900-2.8 (Exhibit 7: Noise and Vibration) (see DMM Record 8, Transition Supplement Overview, Exhibit 7: Noise and Vibration at p. 6; DMM Record 9, Appendix E-1 Pre-Construction Noise Analysis and Appendix E-2 Solar Measurement Noise Analysis Results). Without limitation, the Draft Permit requires that the Permittee comply with all applicable limits for Facility noise and vibration during the construction and operation phases, which include requirements for monitoring, handling of complaints and corrective action pursuant to Draft Permit (DMM Record 32), subpart 5(IV)(k) (Construction Noise). Further, in compliance with Executive Law § 94-c(3)(d), the Office imposed a Site Specific Condition (SSC) at subpart 6(d) of the Draft Permit requiring that the Permittee submit updated noise modeling for the Facility, including associated mitigation measures as required by 19 NYCRR §§900-2.8(o)(2) and (p)(3). Accordingly, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and conditions imposed by the Office, would avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable. For further discussion, please refer to the Substantive and Significant Brief (DMM Record 52, pp. 57-58).
18d	18	04/28/2022	DMM #21-02480 Public Comments Tab	Also, per Figure A-3 in the Pre-Construction Noise Analysis the project will produce between 30-35 dBA of humming noise at my historic home and the other historic structures mentioned above. This will be audible to the human ear and degrades the rural historical setting of these structures.	Please see the response to comment 18c regarding potential significant adverse noise impacts and the record in this proceeding, including but not limited to Staff's Brief at pp. 57-58 (DMM Record 52).

18e	18	04/28/2022	DMM #21-02480 Public Comments Tab	Commercial solar farming is unfit near these visually sensitive resources. It does not fit the physical characteristic and setting of these locations which has been celebrated for the past two centuries. I would like to formally request the removal of sections A1, A2, and A3 to protect these three S/NRHP eligible properties. Although I understand the need for clean energy, removing a small section of prime farmland from the solar project to protect three historically significant locations seem like a reasonable request as this will not dramatically affect the overall goals of the project. Financial remediation for the effects on these properties should not be considered a reasonable option to destroy the character of these properties. At a minimum these locations should be further investigated and possibly arbitrated moving forward.	Please see the responses to comments 18a, 18b and 18c above, incorporated herein by reference.
19a	19	04/28/2022	DMM #21-02480 Public Comments Tab	I'm apposed to the Horseshoe solar project in Rush for the following reasons: The size of the project, 600,000 panels will cover prime farm land in both the towns of Rush and Caledonia. Given the fact that due to continued drought conditions in our west and mid west states it's more important then ever that we maintain as much farm land in New York as possible to help feed the worlds growing population.	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52).
19b	19	04/28/2022	DMM #21-02480 Public Comments Tab	The proposed location in Rush near homes that were built with the understanding that the land was zoned residential and agricultural not industrial (massive electrical generating facility).	This comment is addressed in the record of this proceeding. For further information, please see comments 4e, 4i and 4k regarding compliance with local laws and ordinances of the Town of Rush, Draft Permit subpart 4(b) at pp. 9-14 (DMM Record 32), and Staff's Brief at pp. 29-55 (DMM Record 52).
19c	19	04/28/2022	DMM #21-02480 Public Comments Tab	The proposed land in Rush has significant historical and cultural importance to Na ive Americans and to those of us who think trashing other peoples culture and burial sites is a crime.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
19d	19	04/28/2022	DMM #21-02480 Public Comments Tab	The idea that posting a bond amount today that will cover the cost of remediation of this massive industrial site in 25-30 yrs is absurd. If whom ever owns the site in 25 yrs decides that it's cheaper to pay the bond penalty and walk away, the town of Rush and Caledonia will be stuck with how to get rid of 600,000 panels of glass and photo cells and the cost of removing the infrastructure. Thank you for taking the time to consider my concerns about this project.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2e regarding decommissioning and site restoration, and Staff's Brief at 77-78 (DMM Record 52).Without limitation, Compliance Requirements at Draft Permit subpart 7(l)(b) state that the amount of decommissioning financial security be updated every fifth year throughout the life of the Facility (DMM Record 32).
20a	20	04/28/2022	DMM #21-02480 Public Comments Tab	Though we need to rapidly build renewable energy generation capacity to protect our communities from the threat of climate change, the siting of renewable energy projects is a challenging process that must be carefully and thoughtfully managed. As the Horseshoe Solar project has demonstrated, it is important to robustly and transparently engage the public in identifying appropriate parcels of land for solar development, from the earliest stages of the project,	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4x concerning public engagement and Staff's Brief at pp. 3-8 (DMM Record 52).
20b	20	04/28/2022	DMM #21-02480 Public Comments Tab	while prioritizing the voices of Indigenous people and other historically marginalized populations. My understanding is that the areas in the original plan that were of cultural significance to the Seneca/Tonawanda-Seneca Nations have been removed from the final project area,	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
20c	20	04/28/2022	DMM #21-02480 Public Comments Tab	and the environmental and economic impacts have been well-studied	This comment is addressed in the record of this proceeding. For further information, please refer to the record, including but not limited to Exhibit 27 Socioeconomic Effects (DMM Record 6).
20d	20	04/28/2022	DMM #21-02480 Public Comments Tab	to ensure that this project will benefit the community and not harm wetlands, streams,	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4f concerning wetlands and streams/water bodies and Staff's Brief at pp. 71-74 (DMM Record 52).
20e	20	04/28/2022	DMM #21-02480 Public Comments Tab	birds, or wildlife. Assuming that is correct, I fully support this project and appreciate that Horseshoe Solar will bring NYS closer to achieving the goals of the CLCPA, while providing economic stability for farmers and relieving the tax burdens on residents of Caledonia and Rush.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2c regarding wildlife resources and Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52).
21	21	04/28/2022	DMM #21-02480 Public Comments Tab	I would like to voice my support for the Horseshoe Solar Farm and for the permit of Horseshoe Solar Energy to be approved. As a young person - climate change is an issue that I cannot ignore, and I ask that the state looks forward to meetings our needs for the future in making its decision. Thank you!	Comment noted.

22a	22	04/28/2022	DMM #21-02480 Public Comments Tab		I am opposed to the Horseshoe Solar Application at this time, I do not believe we are prepared to make a decision of this magnitude in a residential/agricultural zone on farm land	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52).
22b	22	04/28/2022	DMM #21-02480 Public Comments Tab		which also has significant historical and cultural importance to Native Americans. This is too much too soon and needs to be better understood by all before having something like this. No matter what facts we know there are many more unknowns that can have significant repercussions for our community.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
23	23	04/28/2022	DMM #21-02480 Public Comments Tab		I believe we should respect the wishes of the Canawaugus, and Onödowaᑎga: and not build on this site. I'm sure we can find somewhere else to put it.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
24	24	04/28/2022	DMM #21-02480 Public Comments Tab		Why is this project on top of Onondaga land it should be somewhere else. Put it on rooftops or find another plot of land. Stealing Native land makes you just like the European invaders and marauders from old times.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
26a	26	04/28/2022	DMM #21-02480 Public Comments Tab		Horseshoe Solar should not happen on the area selected. While solar projects are needed, the selection of the site is truly unacceptable for many reasons - International Law; National Sovereignty; Respect for Indigenous Peoples and their lives and life-ways - political, cultural, and spiritual; Agricultural needs; Biodiversity requirements; and the interests and will of the local and related interested people. The removal of proposed panels from the Canawaugus site itself and the Golah Road substation (POI) area does not address the many unknown remains in the larger area richly populated by Indigenous peoples over the 10,000 years of habitation and habitual movement over the area. Thus it does not satisfy the needs of the Indigenous people and their many allies and allied organizations against this project. The larger POI area is deeply significant. Inhabited by Indigenous people for 10,000 years, the history and the spirituality, and archeological relics, still exist on the larger site. Thus the small area recently excluded from the project does not remove the harm nor fulfill the requirements of the people opposed to this project. The Tubiolo Report, The Cultural Landscape of the Genesee Valley, affirms that the valley is archaeologically unusually rich - so rich that monitoring will not be sufficient to protect the many ground stone tools, ceramics, and bones that are in the large surrounding area. The cultural and historic significance of the area cannot be overstated. And it is the valley that is mentioned - not a mere small, circumscribed area. The UN Declaration of Rights of Indigenous People requires that prior free and informed consent must be sought and obtained before such projects or enterprises as Horseshoe Solar are undertaken. That consent has not been given. The unceded sacred burial grounds of Indigenous peoples at and around the larger site must not be disturbed in any way.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources, comment 4m regarding Environmental Justice, and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
26b	26	04/28/2022	DMM #21-02480 Public Comments Tab		Installing a solar array would also result in the loss of some of the most fertile land in WNY. Our Agricultural sector is already strained. Leave this fertile farmland to continue as fertile farmland! Installing a solar array on the spot would exacerbate food shortages. People are already suffering from higher prices on food, and various shortages. We need this land to be left intact.	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52).
26c	26	04/28/2022	DMM #21-02480 Public Comments Tab		Desecrating the Genesee River is a crime against the people and the planet, especially for the life of the plants and animals with voices that cannot/will not be heard. The river is the only river that completely crosses NY State and has been the lifeblood first of the Haudenosaunee and previous Indigenous peoples, and also of the City of Rochester. The biodiversity of this fragile area is vital and must not be disturbed. Indigenous people, Senecas, the Tonawanda Haudenosaunee, the many members and followers of the WNY Peace Center and other allies of the and supporters Indigenous Peoples their Rights, the Steering Committee of Residents United to Save our Hometown are against this project.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
26d	26	04/28/2022	DMM #21-02480 Public Comments Tab		NYS's use of the 94-C permit process to assign itself the decision-making authority over and above - taking it away from the local authorities, is also against the interests and will of the people, and against the alleged philosophy of NYS (see the CLCPA). This over-reach continues as a crime against the local and Indigenous interests. There are many other sites that are no longer pristine, no longer useful in their current state that would be excellent potential sites for this project. Sites of former factories and their parking lots are an example of good candidates for solar energy projects. Let Horseshoe Solar switch to one of those site. The area selected has already been deeply harmed as ancient oak trees have been girdled. This ill-begotten project is devastating to the larger area and must be stopped.	This comment is addressed in the record of this proceeding. For further information, please refer to comments 4e, 4i and 4k (consideration of local laws and ordinances), and 4x and 4y (engagement with local municipalities and community members leading to significant project revisions). Without limitation, the Permittee's site selection was based upon an iterative design process that included numerous modifications to the Facility design to balance competing impacts to multiple resources, while also considering all pertinent social, economic and environmental factors, including compliance with local laws and ordinances. This iterative review resulted in the removal of approximately 324 acres of solar arrays from Areas F-H in the Town of Rush and approximately 949 from Areas A-E acres in the Town of Caledonia (Staff's Brief at pp. 10-17 and Appendix 1 (DMM Record 52)), and comprehensive measures proposed by the Permittee to comply with local laws and ordinances and avoid, minimize and mitigate potential significant adverse impacts of the proposed Facility to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable. For additional information please refer to the response to Staff's Brief at pp. 10-17 (iterative siting process and the Permittee's proposed avoidance, minimization and mitigation measures) and 55-78 (Site Specific Conditions included in the Draft Permit for the protection of the environment, including cultural resources) (DMM Record 52).

27	27	04/28/2022	DMM #21-02480 Public Comments Tab		I endorse the Horseshoe Solar project. The public benefits that this provides alone are a great addition to the increase in solar energy that so many here seem to outright despise because they were raised on fossil fuels.	Comment noted.
28a	28	04/28/2022	DMM #21-02480 Public Comments Tab		I am a New York State resident who is in support of Renewable Energy and New York's Climate Leadership and Community Protection Act. Solar energy projects bring tremendous economic benefits to communities, especially schools, they help farmers keep their operation in their families, create many jobs .	Comment noted.
28b	28	04/28/2022	DMM #21-02480 Public Comments Tab		and benefit public health not only through producing emissions free electricity, but by greatly reducing the use of agrochemicals such as pesticides and herbicides on site, which are a HUGE danger to public health	Comment noted.
28c	28	04/28/2022	DMM #21-02480 Public Comments Tab		Solar Energy projects are undeniably transformative for communities on top of the bigger picture- transitioning to renewable, healthy, and domestically produced energy.	Comment noted.
29a	29	04/28/2022	DMM #21-02480 Public Comments Tab		Please see the attached comment for details regarding my concerns of the Horseshoe solar project. To whom it may concern, I am writing to convey my concerns about the upcoming Horseshoe Solar Project. I have been directly involved throughout the Article 10 and 94c process. I have continued to express my concerns throughout the project to Invenergy and the Town of Caledonia. Unfortunately, my concerns have not been addressed or even acknowledged for the most part. Although I understand the necessity of green energy, I would hope that communities could be involved in proper siting of these massive facilities as dictated by both the Article 10 and 94c process.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4x concerning public engagement and Staff's Brief at pp. 3-8 (DMM Record 52).
29b	29	04/28/2022	DMM #21-02480 Public Comments Tab		My first concern with project is the impact it will have on several historically significant locations and buildings within our small community near the section labeled A3 on the Facility Layout Map Figure 2.2. There are three specific NRHP eligible properties which deserve further evaluation, and one additional likely NRHP eligible property which was overlooked in the Panamerican Consultants Two-mile APE Study submitted by Invenergy which is dated February of 2020. All four locations lie within half of a mile of one another and panels from section A3 will be visible from all four historic locations despite proposed screening mitigation. The first location is referred to as Oak Knolls Manor. This is the location of a beautifully restored Greek Revival home and more importantly a fully restored Wells Barn. The Welch family has painstakingly restored and preserved this barn over the past few years. Their Wells Barn is incredible and deserves future protection from commercial development such as massive solar arrays. As many people know this is one of the few remaining barns built by the famous designer John Talcott Wells, Sr. Our neighbors have painstakingly restored this barn to its former beauty. The beautiful rolling views of the Genesee Valley allow this barn to cater to a variety of special events, bringing extensive business to the area. By cluttering this view shed with industrial looking solar panels on a massive commercial scale, not only do you hinder their business and livelihood, but you also destroy the farmland setting essential to preserving the history of this architectural work of art. As you may already know the Wells Barns were recently placed on the Seven to Save Endangered Properties List designated by the Preservation League of New York State. More than 200 of these "country cathedrals" originally graced the rural countryside of Western New York. Now less than 50 remain intact according to recent surveys.(1)The significance of this historical gem would be degraded by the placement of a massive commercial solar farm a few hundred feet down the road from it. By turning surrounding rolling farm fields to endless acres of commercial solar arrays, the preservation and character of this agricultural landmark would be diminished. This historically important barn and former farm deserves to be preserved in an agricultural setting. (1) https://www.preservenys.org/blog/seven-to-save-2018-19-edition Another significant home in this half mile stretch of roadway which will be affected by the current plan is the John Hugh McNaughton House. This location is marked by the New York State Education Department as a historical location. The home, which is referred to as the Babble Brook Homestead, was the setting which inspired much of his famous work. His first volume of poetry and songs was even named after the property. Published in 1864 this compilation of songs and poems repeatedly describes the area surrounding the home. Preserving this setting is vital to preserving this historical home. Per Invenergys' own 2-mile APE study the property is described as, "NRHP eligible under Criteria A and C. It's a good representative example of a highly intact mid-19th c. farmhouse with mixed stylistic elements. Though the property's acreage has reduced in size, the farm retains its agricultural setting and contributes to the overall rural character of Caledonia." Many of the rigid, linear, industrial looking panels from the project in portion A3 on the project layout map will be visible from the rear of the property with very little vegetative screening blocking the vast array. The sound will also be audible at this property per Invenergys' own	This comment is addressed in the record of this proceeding. For further information, please see the response to comments 18a and 18b regarding potential significant adverse impacts to cultural resources along this portion of Caledonia Avon Road (State Route 5), together with Staff's Brief at pp. 58-67 (DMM Record 52). Without limitation to the record, the Permittee has voluntarily removed approximately 41 acres of solar arrays along Caledonia Avon Road (State Route 5), Cold Spring Road and Lowery Road (a/k/a the "Gateway to Caledonia") (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8; Staff's Brief at pp. 10-17 and 56-67 and Appendix 1 at "Area A" and "Area B"). In the Draft Permit, the Office has required Site Specific Conditions (SSCs) for a final Visual Impact Minimization and Mitigation Plan (VIMMP) and Cultural Resources Avoidance and Minimization Plan (CRAMMP), to be provided as a mandatory pre-construction compliance filing (DMM Record 32 at subparts 6(b) and (6e)). The Permittee and Town of Caledonia have also entered into a Stipulation Regarding Settlement of Contested Issues dated August 19, 2022 (DMM Record 63), requiring that solar arrays in proximity to 3853 Caledonia Avon Road be setback from Route 5 a minimum distance of 250 feet and 750 feet from any existing non-participating residence to maintain a sense of openness in the view. The stipulation also requires landscaping including a Hedgerow In-Fill planting buffer and a Dense Hedgerow planting buffer to mitigate views of the Facility.

29c	29	04/28/2022	DMM #21-02480 Public Comments Tab		The newly proposed layout will also be fully visible from the gravesite of the Unknown Soldier of the War of 1812 as well, which resides along the roadside of Route 5. This is located about half a mile down the road from the McNaughton House. This gravesite is actually inscribed with song lyrics written by John McNaughton himself. His famous song, "Faded Coat of Blue," which depicts the fallen soldier, is inscribed on this tombstone. The history of these two sites is tied together but will soon be divided by a giant commercial solar farm. This scenic gravesite intentionally overlooks the rolling hills of the Genesee Valley. The new proposed plan would put solar panels within a few hundred feet of the gravesite, cluttering the scenic view dedicated to a fallen US Veteran. The gravesite view will soon be a massive commercial solar farm, rather than a tribute to a fallen hero. This plan is completely disrespectful to the gravesite of an American Soldier. The scenic views associated with this gravesite should not be desecrated by a solar farm. Due to the topography of this area the panels will be nearly impossible to screen. The last location of concern on this short stretch of roadway on Route 5 in is my personal home. I recently purchased my home at 3853 Caledonia Avon Rd. in Caledonia, NY and have begun the slow but necessary restoration on this beautiful Greek Revival Era home and barn dating back to the mid-1800s. I have always been drawn to historic buildings and find their charm and character unbeatable. Despite my very vocal concerns about this historic property, which is likely NHPR eligible, my home and barn continue to go unmentioned in the Panamerican Report. I notified Invenergy and The Town of Caledonia on many occasions, stressing the historical nature of my home. I met in person with Kate Millar from Invenergy on 10/8/2019, 12/09/2019, and 02/12/2020 to discuss these issues. I also discussed my concerns in person with the Caledonia Town Supervisor Daniel Pangrazio in October of 2019. I discussed my home at several Town Board meetings, which at the time included in person representation from Invenergy as well. These meeting dates included 10/10/2019, 12/12/2019, 08/13/2020, 06/10/2021, and 02/10/2022. I distributed a public comment in the Article 10 process voicing my concerns to both the town and Invenergy on 1/13/2020. I also emailed the towns attorney on 4/9/2022 with my concerns. Despite many attempts mitigate these concerns they continue to go unaddressed, let alone even acknowledged in APE study. I have enclosed several photos of my home which demonstrate the characteristics of the Greek Rival Style from the mid-1800s, the period in which it was built. I believe it meets criteria C making it eligible for NRHP status. The barn is dated 1878 and features local coursed, cut block limestone which was typical for the area nearly two centuries ago.	Please see response to comment 29(b) above, incorporated herein by reference.
29d	29	04/28/2022	DMM #21-02480 Public Comments Tab		Interestingly, if you review the Panamerican Consults Report submitted by Invenergy in February of 2020 you will note in section 3.3 Project Consultations all PIP activities were completed in or prior to Feb 2019. At this time my property was not immediately adjacent to the project. The project was over half a mile from my home at that time. In fact, I was not even notified that I was an immediately adjacent land owner until the late fall of 2019, well after the PIP phase mentioned in the report was completed. This was likely due to the numerous dramatic layout changes which occurred well after these mentioned PIP initiatives. Per Article 10 all adjacent land owners should be notified early in the process to allow for full and meaningful involvement in the siting process. Unfortunately, I was notified of my direct involvement nearly a year after project had started and well after Panamerican had gathered public input per their own published report.	Please see response to comments 29(a) and 29(b) above, incorporated herein by reference.
29e	29	04/28/2022	DMM #21-02480 Public Comments Tab		Despite my continued pressure I feel that my home was likely intentionally omitted from the study given its massive and unavoidable involvement in the project. This error seems egregious given that their own work plan (section 3.3 of the APE study) was supposed to include "Evaluation of potential NRHP-eligibility of architectural resources greater than 50 years old within those areas of project visibility." How was my home missed when it is obviously marked on their own 1872 Atlas map noted in Figure 2.2 in the Panamerican Report? They didn't think to do a site visit, validating their own information, and determine if this building from 1872 still stands? Especially a property that immediately abuts the project and is by far the most affected residential property in this entire 3800-acre project. OPRHP stresses that the industrial form and scale of solar panels are incongruous with the surrounding agricultural setting, and indicated that this project would adversely impact historical locations. Although they did remove the Canawaugus Reservation Site based on this recommendation, Invenergy has failed to adequately address the concerns of the other historical locations mentioned previously. Per OPRHP they recommend a mitigation plan and historic preservation plan related to these properties. The mitigation plan set forth by Invenergy should not merely offer funding for the preservation of unrelated projects in hopes of offsetting the impact on these four properties. Destroying four historic locations should not be excused by merely throwing money at other unrelated historical projects. Especially when the impact can be easily remedied by removing one single section of the project (A3).	Please see response to comment 29(b) above.
29f	29	04/28/2022	DMM #21-02480 Public Comments Tab		Although setbacks seem consistent with ORES standards, these standards do not take into account the massive size of the project and natural topography of rolling hills in the area which make adequate screening mitigation impossible. I fully understand the necessity of green energy, but I would hope it could be placed in areas that don't impact four historically significant locations within our small community. My small neighborhood on Route 5 doesn't have many homes but interestingly there is a great deal of history packed into this quarter mile stretch of Route 5.	Please see response to comment 29(b) above, incorporated herein by reference.
29g	29	04/28/2022	DMM #21-02480 Public Comments Tab		The rows and rows of solar panel and audible noise that will be produced in section A3 are incongruent with the tranquil rural setting essential to preserve these historic locations for years to come. They will adversely affect this area based on Section 106 of the National Historic Preservation Act.	Please see response to comment 29(b) above, incorporated herein by reference.

29h	29	04/28/2022	DMM #21-02480 Public Comments Tab		This was pointed out by OPRHP on 5/5/20 when the stated: “As defined by the Section 106 regulations: “An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” (36 CFR Part 800.5) This section goes on to define examples of adverse effects, which include the: “Introduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant historic features.” (36 CRP Part 800.5(2)(v)) Of particular concern with large-scale commercial solar facilities is their impact on the “setting” associated with the identified historic resources. The National Park Service’s Bulletin 15: How to Apply the National Register Criteria for Evaluation provides he following definition for the setting of historic property: “Setting is the physical environment of a historic property... Setting refers to the character of the place in which a property played its historic role.” (NPSB 15, page 45) The proposed undertaking will include 600,000 solar panels on tracking racks and divided into several large array sections. The arrays will be set within a 3,857-acre project area. The arrays themselves will physically occupy and visually alter roughly 1,260 of those acres. The rows are relatively low in profile reaching at the upper edge less than 10-15 feet in height from the ground and will “track” the sun throughout the day. However, the concern will be the regimented linear industrial-looking rows that may be visible from the National Register listed and eligible properties. The project area’s landscape is generally open and agricultural in character. This rural setting is an important character-defining feature associated with the identified historic properties. The proposed long regimented rows of black, semi-reflective panels may be highly visible in the areas of the historic resources. We found that the large solar arrays with their industrial form and scale will be incongruous with the surrounding natural agricultural setting. In addition, potential glare and reflectivity at various times of the day are also of concern. As such, our office has found that the undertaking will have adverse effect on historic resources within the project’s area of potential effect.”	Please see response to comment 29(b) above, incorporated herein by reference.
29i	29	04/28/2022	DMM #21-02480 Public Comments Tab		Section A3 fully encroaches on he historically and visually important views and landmarks associated with the history of Caledonia and NYS. This entire section of the Route 5 Corridor mentioned above should be consider a critical area due to its exceptional natural setting and vibrant cultural history which is sensitive to commercial and industrial change. I am politely requesting further review of this area and ultimately encouraging the removal of section A3 from the overall plan which will help preserve all four locations mentioned above. At a minimum I believe this issue requires a more thorough investigation and remediation during the determinations process. The possible need for further determination was echoed in the June 30th, 2021 letter from Interim Siting Board Chairman John Howard when he stated “In finding the application complete, I want to acknowledge the letter dated June 9, 2021, from the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP), which raises certain issues related to determinations made by OPRHP. These issues may appropriately be addressed in the next stage of the case.”	Please see response to comment 29(b) above, incorporated herein by reference.
29j	29	04/28/2022	DMM #21-02480 Public Comments Tab		As a separate matter, I also have legal concerns regarding the handling of the Article 10 and 94c siting process by the Town of Caledonia. It has recently come to my attention that there may have been some mishandlings by the Town Board when developing their new solar law which was put in place on 06/07/2021. The law was designed by an appointed solar committee which was personally selected by the Town Supervisor. This committee included Keith Stein, a current zoning board member, who is a part owner of section A3. He was under contract/lease agreement with Invenergy at the time he was appointed to the solar committee. How can someone be appointment and allowed to offer official input on solar law effecting a project when they have already accepted funds from the applicant? I believe may this may be a violation Article 18 of New York’s General Municipal Law and may nullify the current lease on parcel A3. As the Caledonia Town of Code explicitly states, “Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Town Board and any officer or employee of the Town of Caledonia, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.”(2) This issue appears to be a blatantly obvious code of ethics violation as he did not publically disclose his financial interest in the matter at hand. These local law decisions set forth by his actions directly impact the siting of section A3. (2) https://ecode360.com/8753332	The Office's review of the subject siting permit applica ion was conducted pursuant to Executive Law §94-c and 19 NYCRR Part 900. The application was a transfer of an application with a completeness determination pursuant to Public Service Law Article 10, deemed complete by operation of law in compliance with Executive Law 94-c(4)(f)(i). Following public notice of the Office's February 22, 2022 Draft Permit in compliance with Executive Law § 94-c(5)(c)(i) and 19 NYCRR § 900-8.1, a robust public comment period and issues determination procedure was conducted under supervision of two assigned Administrative Law Judges (ALJs). See Combined Notice of Availability of Draft Permit Conditions, Public Comment Period and Public Comment Hearing, and Commencement of Issues Determination Procedure, as amended and supplemented (DMM Record 33 and 39). This process included a virtual public comment hearing on April 26, 2022, an in-person public comment hearing on April 27, 2022, and a public comment period allowing for the submission of written comments through April 28, 2022. Following the issues determination procedure in compliance with 19 NYCRR subpart 900-8, the assigned ALJs issued a Ruling on Issues and Party Status, and Order of Disposition dated June 13, 2022 (Issues Ruling) (DMM Record 56). Following appeals of the Issues Ruling by the Town of Caledonia and the Town of Rush to the Executive Director, the Town of Caledonia and the Permittee entered into a Stipulation Regarding Settlement of Contested Issues dated August 19, 2022 (DMM Record 63). On December 9, 2022, the Executive Director issued the Final Decision of the Executive Director in this proceeding. Additional information can be found in the record of this proceeding at Document Matter Management (DMM Record) system Matter No. 21-02480, accessible online at https://ores.ny.gov/permit-applications.
29k	29	04/28/2022	DMM #21-02480 Public Comments Tab		This may also impact the standing of the PILOT program as the same committee helped design and regulate the need for a PILOT program. I feel that both issues need closer examination during the siting process and may provide additional grounds for removal of section A3.	Please see response to comment 29j above.

29l	29	04/28/2022	DMM #21-02480 Public Comments Tab		I support the concerns of our Indigenous People as well. With respect to Indigenous consultation, NYSDEC states: "Human beings have been present in New York since the end of the last ice age, approximately 12,000 years ago when people followed retreating glaciers to take advantage of the opportunities provided by the newly opened landscapes. These people were the original occupants in New York. Like us, they had goals, desires, traditions and beliefs, which helped them work together to form communities. They interacted with one another, and ultimately with Dutch, British, French, and American settlers. Evidence of their cultural practices and ways of living is present in the archaeology of the state, the historical record, and in the oral tradition of the nations. Indigenous people (Native Americans) are still here." Why have the concerns of the Indigenous people been repeatedly ignored when it comes to the Horseshoe project? They have literally begged and pleaded with the state and Invenergy not to cause irreparable damage the lands of their ancestors in the Genesee Valley. It is well known that Genesee Valley has been densely populated by the Indigenous People for centuries. This dense habitation was due to the flooding and sediment of the Genesee River providing rich land for farming. The 10,000+ artifacts found during the Phase I Archeological Survey only represent a iny fraction of what history is buried under this unique landscape. Clearly pile driving tens of thousands of racking systems 10-20 feet into the ground will cause irreparable harm to these artifacts. This doesn't even begin to touch on the plethora of suspected Native American burial grounds which will be desecrated throughout the valley if he project moves forward. Why would ORES and NYS allow an international, multibillion dollar energy company to come into NYS and destroy the heritage and burial sites of the Indigenous people despite repeat concerns from the community and the Seneca Nation. At a minimum a Phase II study should be considered using sonar technology that it available for this very purpose. It's time the government respects the wishes of the Indigenous People. As everyone knows the US Government has a long standing, notorious history of destroying this culture over the past few centuries. Approving the project in its current state furthers this well-known, disgraceful legacy of the cultural genocide being inflicted on the Indigenous People.	These comments are addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources, comment 4m regarding Environmental Justice, and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
29m	29	04/28/2022	DMM #21-02480 Public Comments Tab		Lastly Invenergys' arguments to invalidate Caledonia and Rush Town Code seems unfounded and inappropriate as a whole. Caledonia town code states that only 50% of prime farmland fields should be used for large tier solar systems. I am sure you are well aware that this law is well backed by newer research being publish in regards to using Prime farmland for commercial solar farming. There are multiple studies in the works, including one at Cornell University specific to NYS, which suggest dense use of prime farmland for commercial solar is suboptimal due to a multitude of reasons. This is even backed by new bills proposed in NY legislature. Yet Invenergy claims they will lose too much space (aka profit) and need to redesign their project. The burden of their indiscretion when it comes to ignoring the local law, should not fall on the local communities. Especially when the communities have put time, effort and resource into designing local laws to provide guidance to these companies.	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52).
29n	29	04/28/2022	DMM #21-02480 Public Comments Tab		Suggesting additional vegetative screening would be overly burdensome due to cost also seems like a widely inappropriate statement coming from a multi-billion-dollar company who is set to receive millions and millions of dollars in profit from this project. If they are truly committed to green energy and fighting climate change, then they should be fully committed to increasing green space with additional screening which meets the towns needs and local law. If I were setting up a local project, I would have to invest in this screening and meet town code. Why is a massive international company not being held to the same standards? They can afford the screening and ORES has the opportunity to set an example by enforcing town code. This example will hopefully expedite other future project by setting a precedent that the large companies should stop blatantly disregard local law and not challenge Home Rule Law. Thank you for taking the time to read this. Your consideration and efforts are greatly appreciated.	These comments are addressed in the record of this proceeding. Without limitation, the Draft Permit provides minimal relief from the solar facility landscaping and screening requirements in Caledonia Town Code § 106-9(C)(3) that the Facility be "not visible" year-round, which were found to be unreasonably burdensome in light of CLCPA targets and the environmental benefits of the proposed Facility. However, the Draft Permit required that proposed landscaping and screening avoid, minimize and mitigate potential significant adverse visual impacts to the maximum extent practicable, and required compliance with remaining substantive provisions of Caledonia Town Code § 106-9(C)(3). See Draft Permit at subpart 4(a)(iv), pp. 8-9 (DMM Record 32). In compliance with Executive Law 94-c(3)(d), the Draft Permit also included Site Specific Conditions (SSCs) requiring the Permittee to submit a final Visual Impact Minimization and Mitigation Plan (VIMMP). will include a final Screen Planting Plan, and final Cultural Resources Avoidance and Minimization Plan (CRAMMP) (DMM Record 32 at subparts 6(b) and (6e)). The final VIMMP and CRAMMP will be provided to the Office for review and approval as mandatory pre-construction compliance filings consistent with 19 NYCRR § 900-10.2. Moreover, the Permittee and Town of Caledonia entered into a Stipulation Regarding Settlement of Contested Issues dated August 19, 2022 (DMM Record 63), requiring, among other things, landscaping of solar arrays in proximity to 3853 Caledonia Avon Road, including a Hedgerow In-Fill planting buffer and a Dense Hedgerow planting buffer to mitigate views of the Facility.
30a	30	04/28/2022	DMM #21-02480 Public Comments Tab		See attached document with written comments. Office of Renewable Energy Siting Empire State Plaza 240 State Street, P-1 South, J Dock Albany, NY 12242 general@ores.ny.gov RE: Written Public Comments on the Draft Permit for Horseshoe Solar Energy LLC-21-02480 I am a life-long resident of New York and I have lived in the Town of Rush for the last 36 y ears. I am a Professional Engineer licensed in the State of New York and have worked on a multitude of infrastructure projects over my 37 year career including transportation, water works, electric and natural gas utilities. Please consider the following comments that this project will be <u>not</u> approved. ☐ The APA guideline for solar siting indicates that grazing land should be used rather than tillable farmland. The majority of the land being considered is prime 'bottom land', tillable farmland. ☐ Before the Mount Morris dam was built, much of this area was flooded during major storm events, which helped to enhance the farmland and creation of the oxbows sometimes referred to as horseshoes Also, many oak trees were planted in the farm fields to provide shade and a rest area for the farmers working the land. These are historic features that need to be protected. The solar arrays on the southern end of East R iver R oad in Rush will impact one of these oak trees.	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52). Without limitation to the record, the Permittee has avoided prime soils classified as Mineral Soil Groups 1-4 to the extent practicable, as depicted at Appendix H1 to the Permittee's Transition Supplement Overview (DMM Record 9). With regards to potential flooding concerns, please see the response to comment 30h.

30b	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ The Genesee River Valley is an extremely valuable New York State resource due to the fact it is a major river, the flora and fauna along the corridor, recreational use on and paralleling the river, and the recent increase in eagle sightings along the river and the tributaries.	These comments are addressed in the record of this proceeding. For further information, please see comments 2c (wildlife including T&E species) and 4f (wetlands and streams/waterbodies). With regard to potential significant adverse impacts to visual resources and the Genesee River Valley in particular, the Permittee conducted a comprehensive investigation of visual impacts and incorporated the results of these assessments and studies into Exhibit 24: Visual Impacts (DMM Record 6) and accompanying appendices (DMM Record 7). As noted hereinabove, this analysis included, but was not limited to, outreach to 131 contacts including state agencies, municipal planning representatives, town and village historians, local and regional chambers of commerce, and local environmental groups resulting in the identification of 282 visually sensitive resources in the 5-mile Visual Study Area. To avoid, minimize and mitigate potential significant visual impacts to visual and other resources to the maximum extent practicable, the Permittee modified its Facility design (including without limitation removal of solar arrays along the Genesee River from approximately 725 acres from "Area D" in the Town of Caledonia and 158 acres from "Area G" in the Town of Rush), and considered additional measures to avoid, minimize and mitigate potential impacts to visual resources in the community to the maximum extent practicable (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8) (see also DMM Record 52, Staff's Brief at pp. 10-17 and 67-77 and Appendix 1). Viewed from the perspective of the project as a whole, the significant Facility modifications (including the removal of approximately 949 acres of solar arrays from Areas A-E acres in the Town of Caledonia and approximately 324 acres of solar arrays from Areas F-H in the Town of Rush and) (Staff's Brief at pp. 10-17 and Appendix 1 (DMM Record 52)), and comprehensive measures proposed by the Permittee and included by the Office in the Draft Permit to comply with local laws and ordinances and avoid, minimize and mitigate potential significant adverse impacts of the proposed Facility to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable (see e.g. Draft Permit, subpart 6 Site Specific Conditions (SSCs) at 60-71 (DMM Record 32)). Without limitation, in compliance with Executive Law § 94-c(3)(d), the Office imposed a SSC requiring the submission of, among other things, a final Visual Impacts Minimization and Mitigation Plan (VIMMP) with updated Screen Planting Plans, as described in SSC 6(b) of the Draft Permit (DMM Record 32). The Office will review these submissions at the pre-construction compliance filing review stage to ensure that visual impacts are adequately addressed and that offsite views to the Facility are mitigated to the maximum extent practicable. See also Staff's Brief at pp. 55-56 (DMM Record 52).
30c	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ The proposed sites for solar will be visible from 2 major trail park corridors. The Lehigh Valley Trail is a Monroe County Park that runs east west on the northern edge of the project area and the Genesee Valley Greenway is a New York State Park that runs north south in the middle of the project area. Users of this trail system will be admiring the beautiful nature around the trail and then seeing the industrial, mechanical solar facilities adjacent to the trails. Not the park like view that is wanted or expected.	This comment is addressed in the record of this proceeding. For further information, please refer to the previous comment 30b as well as comment 4a regarding potential significant impacts to visual and recreational resources, and Staff's Brief at pp. 10-17 and 56-57. Without limitation to the record, potential significant adverse impacts to the Lehigh Valley Trail and the Genesee Greenway were discussed in the Exhibit 24: Visual Impact Assessment (VIA) (DMM Record 7), please refer to Table 7 Visually Sensitive Resources with Potential Visibility of the Facility at pp 35-39.
30d	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ Why is New York State considering solar projects at this scale when they will produce power 20% of the time, only during sunny days, and then degrade 20% over the life of the panels ?	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
30e	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ The project sponsors claim that the panels are recyclable. Who is doing that now and how much does it cost now and in the future?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2e regarding decommissioning and site restoration, and Staff's Brief at 77-78 (DMM Record 52). Without limitation, the decommissioning financial security estimate does not include cost recovery from recycling of panels, and Compliance Requirements at Draft Permit subpart 7(I)(b) state that the amount of decommissioning financial security be updated every fifth year throughout the life of the Facility (DMM Record 32).
30f	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ Even the states of North Carolina and California are constructing gas fired co-generation facilities to provide energy at times when renewables are not producing enough energy. Not reliable or sustainable.	Please see response to comment 30d above. In compliance with the CLCPA, New York State is pursuing multiple renewable energy options to fight climate change and transform the State to an emissions-free economy. Existing fossil fuel-based co-generation technologies do not replace major (utility-scale) wind and solar projects that are necessary to achieve CLCPA targets of 70% clean energy by 2030, and emissions-free electrical generation by 2040.
30g	30	04/28/2022	DMM #21-02480 Public Comments Tab		□ Invenenergy is a company headquartered in Illinois with a store front office in N.Y. The majority landowner in the project area is Ceres Corporation that is headquartered in Indiana. Also, the current major supplier of solar panels is China. This project is not investing in New York companies or growing New York businesses.	This comment is addressed in the record of this proceeding. For further information, please refer to the record, including but not limited to Exhibit 27 Socioeconomic Effects (DMM Record 6).

30h	30	04/28/2022	DMM #21-02480 Public Comments Tab	☐ From a risk perspective, one has to look at the probability of an event and the consequence of the event. Although low in probability, there is a risk that a series of storm events could crest the Mount Morris Dam and the failure of the dam would put many of the solar panels in a flood area, a catastrophic consequence. These are all compelling considerations for NOT siting or approving this project for either Livingston or Monroe County.	With regard to potentially significant adverse impacts due to flooding, Appendix 11a-2 (drainage report redacted) (DMM Record 11, pp 3-7) provides a thorough discussion of the Permittee's comprehensive evaluation of flood-prone areas within the Facility, including a model to simulate rainfall runoff on the site from major rivers and their tributaries and identify areas that would experience the highest flood depth and shear stress during a flood. As described in Staff's Brief (DMM Record 52, pp. 10-17 and 40-43), the Permittee avoided the most flood-prone areas. A small part of the Facility is sited in a designated floodplain or areas identified by the Permittee as having minor flooding potential. The Permittee designed Facility components in those areas to be flood-resilient, as discussed in the drainage report (Appendix 11a-2 redacted, DMM Record 11, pp 3-7) and the Article 10 record (DPS DMM Record 18-F-0633 Record 103 at 2-3). The Permittee has also designed the proposed Facility to comply with both the Town of Caledonia Flood Damage Prevention law (Caledonia Town Code Chapter 74) and the Town of Rush Flood Damage Prevention law (Rush Town Code Chapter 65) (see DMM Record 8, Local Laws and Ordinances). These codes require a developer to, among other things, avoid increases in flood elevation; construct structures to be resistant to flood damage; and construct structures to be elevated above base flood elevation. The Permittee has designed the Facility to comply with these requirements (DMM Record 8, pp. 1 and 4). The Permittee is also required to comply with the federally-delegated SPDES Stormwater General Permit requirements, which include the requirement to prevent increased flooding due to development of the Facility (Exhibit 32, DMM Record 6, pp. 1). Finally, the Mount Morris Dam is owned by the US Army Corps of Engineers (USACE) and is regularly inspected and evaluated by the ACOE. Accordingly, the Office concluded that the proposed Facility, with the measures proposed by the Permittee, would avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable.
31a	31	04/28/2022	DMM #21-02480 Public Comments Tab	See attached document with written comments. Office of Renewable Energy Siting Empire State Plaza 240 State Street, P-1 South, J Dock Albany, NY 12242 general@ores.ny.gov RE: Written Public Comments on the Draft Permit for Horseshoe Solar Energy LLC-21-02480 I attended the public hearing last night and although the many people who spoke against Horseshoe Solar were excellent, logical, well prepared and articulate, I am only disheartened, disillusioned and feeling hopeless. I know personally, as I have gone door to door in this town, that the majority of residents that LIVE HERE do not want this massive industrial solar power facility to surround our beautiful town and homes. And just like the people who spoke up, I could talk about... ☐ The fact that it is racist, dishonoring and cruel to be so disrespectful of the Indigenous People and the burial sites of their ancestors. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 1 regarding cultural resources, comment 4m regarding Environmental Justice, and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
31b	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that you will be forever changing the beauty and landscape of our rural and residential town. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 30b regarding visual impacts and Staff's Brief at pp. 10-17 and 67-77.
31c	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that this monstrosity should be placed in an Industrial zoned area and not be surrounding our homes that we spent our hard-earned money on and worked so hard to build. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please see comments 4e, 4i and 4k regarding local laws and ordinances and Staff's Brief at pp. 10-55.
31d	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that our property values and number of buyers for our homes will diminish because of these large-scale facilities that are literally enveloping homes. But it doesn't really matter, does it? ➤ The fact that the 'poor' farmers, that don't even live in this town, only want even more money than they already have, and already have more money than I will ever personally see in my own lifetime. But it doesn't really matter, does it?	The Office's primary concern is the health and safety of all New Yorkers. In recommending approval of the Draft Permit, the Office considered, among other matters, public health and safety and all pertinent social, economic and environmental factors of the Solar Facility. Executive Law § 94-c does not require findings or studies on the effects of major renewable energy facilities on adjacent or nearby property values. EL § 94-c(5)(f) does require that any final permit issued by the Office include a provision requiring the permittee to provide a Host Community Benefit. For additional information on Host Community Benefits (including payments in lieu of taxes, or PILOT agreements), please refer to Exhibit 27 Socioeconomic Effects (DMM Record 6).
31e	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that New York State has stated that they did not want these industrial facilities located on Prime Agricultural Farmland. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please see the response to comment 2a above regarding protection of agricultural resources and Staff's Brief at pp. 67-69 (DMM Record 52).
31f	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that several agencies in New York actually disagree with putting in this large-scale industrial power plant along the Genesee River. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please see comment 4f regarding wetlands, waterbodies and streams and Staff's Brief at pp. 10-17 and 71-77 (DMM Record 52). Without limitation, to avoid, minimize and mitigate potential significant impacts to areas along the Genesee River to the maximum extent practicable, the Permittee voluntarily modified its Facility to remove solar arrays from approximately 725 acres along the Genesee River in "Area D" of the Town of Caledonia and 158 acres from "Area G" in the Town of Rush. In compliance with Executive Law § 94-c(3)(d), the Office further included Site Specific Conditions at subpart 6(h) of the Draft Permit requiring the use of Horizontal Directional Drilling (HDD) to install collection lines and associated cabling underneath streams and rivers to the extent practicable, and a Site-Specific Crossing Plan for the Genesee River and Honeoye Creek to avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable during the construction phase (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8) (see also DMM Record 32, Draft Permit subpart 6(h) pp. 67-69 and DMM Record 52, Staff's Brief at pp. 10-17 and 67-77).

31g	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that these ugly fenced in areas will most definitely affect the wildlife that have always been able to roam about freely and will now be restricted. But it doesn't really matter, does it? ➤ The fact that many, many species of animals and birds have already been negatively affected by all of these 'renewable' power plants all over the country. Just do the research. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2c regarding wildlife resources and Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52).
31h	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that in this area we get many cloudy days and therefore these panels will not be efficient. But it doesn't really matter, does it? ➤ The fact that Texas froze last year due to the 'reliability' of this inconsistent energy source. But it doesn't really matter, does it?	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
31i	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that these panels will most likely be made in China and we have no guarantees that they do not contain dangerous materials in them. But it doesn't really matter, does it? ➤ The fact that there are no assurances that our local wells will not be affected. But it doesn't really matter, does it?	The Office's primary concern is the health and safety of all New Yorkers, and the Office continues to consider that concern paramount in its review of siting permit applications. The Permittee completed an evaluation of hydrological information (including depth to groundwater and aquifers) and a survey based upon publicly available information in consultation with the New York State Department of Health (NYSDOH) of existing well locations, to avoid and minimize potential significant impacts to drinking water aquifers and private wells, including with respect to any proposed Horizontal Directional Drilling (HDD) for collections lines to avoid or minimize impacts to wetlands, streams and waterbodies. Exhibit 23 Water Resources and Aquatic Ecology at pp. 23-1 -- 23-3, and Figure 23-1 Rev 1: Groundwater Aquifers and Recharge Areas (DMM Record 8); Figure 23-3: HDD Locations (DMM Record 6). The Permittee has also committed to no blasting during the construction phase (DMM Record 4, Exhibit 21 Geology, Seismology and Soils at pp. 21-10 -- 21-11), and the Draft Permit includes a Site Specific Condition (SSC) to this effect at subpart 6(c) (DMM Record 32 at 63) (see also DMM Record 52, Staff's Brief at 57). The Office notes that at his time, the Permittee has not yet selected a panel model to be procured (DMM Record 3, Exhibit 11: Preliminary Design Drawings at 11-1). With respect to the model of solar panels ultimately selected by the Permittee, the Draft Permit (DMM Record 32) includes Uniform Standards and Conditions (USCs) (subpart 5), (Site Specific Conditions (SSCs) (subpart 6), and required compliance filings (subpart 7) to avoid, minimize or mitigate potential significant adverse environmental impacts to the maximum extent practicable. See e.g. EL § 94-c(3)(d) and 19 NYCRR subparts 6 and 10. Without limitation, Draft Permit subpart 5(l)(a) and 19 NYCRR § 900-2.6(f)(5) require that the Permittee submit "[a]ny manufacturer provided information regarding the design, safety and testing information for the turbines, solar panel, inverters, substations, transformers, and battery storage equipment to be installed during construction, or as related to any equipment installed during facility operation." Further, as per SSC 6(a) of the Draft Permit (DMM Record 32), the Permittee is required to submit Final Plans, Profiles and Detail Drawings which shall reflect any modifications to the Facility design, and Office Staff will review the Permittee's selected technology as a mandatory pre-construction compliance filing under 19 NYCRR §§ 900-10.1(a) and 900-10.2. Additionally, Section 7(II)(a) of the Draft Permit requires the Permittee to provide any updated information regarding the design, safety and testing for Facility components, including solar panels, pursuant to 19 NYCRR § 900-10.3.
31j	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that they do not have the ability to recycle the number of solar panels that are being made and that they will probably just end up in a land fill somewhere. But it doesn't really matter, does it? ➤ The fact that the environment is being destroyed and that there are now HUGE holes in the earth from digging for the materials that go into making these panels and batteries, but for some reason, as long as it's for solar, then the destruction of the earth and farmland is ok. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2e regarding decommissioning and site restoration, and Staff's Brief at pp. 77-78 (DMM Record 52).
31k	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that it takes a ton of fossil fuels to develop, maintain and expose of these supposedly 'green' energy sources. But it doesn't really matter, does it? ➤ The fact that we already have a renewable energy source in place that can already meet our needs in Western New York. But it doesn't really matter, does it?	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. In compliance with the CLCPA, New York State is pursuing multiple renewable energy options to fight climate change and transform the State to an emissions-free economy. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibit 8 Electric System Production Modeling - REDACTED (DMM Record 10) and Exhibit 10 Consistency With Energy Planning Objectives (DMM Record 3); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
31l	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that the batteries needed for solar to work are by no means 'green' and are known to contain hazardous chemicals and even spontaneously combust. But it doesn't really matter, does it? ➤ The fact that if these dangerous batteries do leak or explode, the toxic materials in them will totally contaminate any buildings or properties that they touch, and we would have to be evacuated from our homes. But it doesn't really matter, does it?	Comment noted. For information, a Battery Energy Storage System (BESS) is not proposed at this Facility.
31m	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The fact that a large group of citizens of his town spent many hours and much effort over a year and a half working on our local solar law only to be told that our laws don't matter, and that the Invenergy company wants to be exempt from all the Town codes that we painstakingly put together. I guess laws only apply to us and not to the 'elites'. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4x concerning public engagement, comments 4e, 4i and 4k regarding compliance with local laws and ordinances, and the record, including but not limited to Staff's Brief at pp. 3-8 (procedural background and issues determination procedure), 10-17 (avoidance, minimization and mitigation measures), 17-55 (local law compliance) and 55-77 (SSCs) (DMM Record 52).
31n	31	04/28/2022	DMM #21-02480 Public Comments Tab	➤ The infuriating fact that two judges and two companies, who don't even live in this area are going to decide what is going to be forced down our throats in Rush and that we have absolutely no control over that decision. But it doesn't really matter, does it?	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4x concerning public engagement, comments 4e, 4i and 4k regarding compliance with local laws and ordinances, and the record, including but not limited to Staff's Brief at pp. 3-8 (procedural background and issues determination procedure), 10-17 (avoidance, minimization and mitigation measures), 17-55 (local law compliance) and 55-77 (SSCs) (DMM Record 52).

31o	31	04/28/2022	DMM #21-02480 Public Comments Tab	Thomas Sowell has an enlightening quote that is appropriate in this case... 'It is usually futile to try to talk facts and analysis to people who are enjoying a sense of moral superiority in their ignorance.' All that matters is...you guessed it...money, money, money, and power, power, power. They can tell us all they want that this is about 'saving' the environment, etc., but we all know the truth. We ALL know that this is all about money and the elites long term plan to destroy our great state and our great country. But I am asking you to do the right thing and NOT approve this disastrous, massive industrial project. The so-called leaders in this state are just following orders and will do whatever they want to and even though they are pretending to 'listen to the little people', it just doesn't really matter, does it? And even though, it doesn't really matter, that will not keep us from fighting. At least I can look myself in the mirror and I can sleep soundly at night. Can you?	Comment noted.
33a	33	04/28/2022	DMM #21-02480 Public Comments Tab	I am a college student who lives in Rush and I do not approve of this Horseshoe solar power plant in Rush. It does not belong in this community and it will destroy the rural country that I love. I would like to continue living in Rush but I am concerned about my safety	The Office's primary concern is the health and safety of all New Yorkers. The Draft Permit (DMM Record 32) includes Uniform Standards and Conditions (USCs) (subpart 5), (Site Specific Conditions (SSCs) (subpart 6), and required compliance filings (subpart 7) to avoid, minimize or mitigate potential significant adverse environmental impacts to the maximum extent practicable. See e.g. EL § 94-c(3)(d) and 19 NYCRR subparts 6 and 10. Without limitation, Draft Permit subpart 5(l)(a) and 19 NYCRR § 900-2.6(f)(5) require that the Permittee submit "[a]NY manufacturer provided information regarding the design, safety and testing information for the turbines, solar panel, inverters, substations, transformers, and battery storage equipment to be installed during construction, or as related to any equipment installed during facility operation." Further, as per SSC 6(a) of the Draft Permit (DMM Record 32), the Permittee is required to submit Final Plans, Profiles and Detail Drawings which shall reflect any modifications to the Facility design, and Section 7(II)(a) of the Draft Permit requires the Permittee to provide any updated information regarding the design, safety and testing for Facility components, including solar panels, pursuant to 19 NYCRR § 900-10.3. The Office notes that at this time, the Permittee has not yet selected a panel model to be procured (DMM Record 3, Exhibit 11: Preliminary Design Drawings at 11-1). Office staff will review all selected module and coating technologies for compliance with all applicable state and federal laws in accordance with the permit requirements
33b	33	04/28/2022	DMM #21-02480 Public Comments Tab	and the wildlife if this massive solar power plant is put in my town. This Solar application is illogical and does not belong in Rush! I strongly disapprove of this project!	
34a	34	04/28/2022	DMM #21-02480 Public Comments Tab	As a long time climate activist, I am in support of renewable energy generation, including utility scale projects. However, I believe projects should be co-created with relevant stakeholders, most notably those who have been historically marginalized and those most impacted by climate change. I support the Horseshoe solar project only if the project has removed from consideration lands of cultural significance to the Seneca/Tonawanda-Seneca Nations.	Without limitation, Draft Permit subpart 5(l)(a) and 19 NYCRR § 900-2.6(f)(5) require that the Permittee submit "[a]NY manufacturer provided information regarding the design, safety and testing information for the turbines, solar panel, inverters, substations, transformers, and battery storage equipment to be installed during construction, or as related to any equipment installed during facility operation." Further, as per SSC 6(a) of the Draft Permit (DMM Record 32), the Permittee is required to submit Final Plans, Profiles and Detail Drawings which shall reflect any modifications to the Facility design, and Section 7(II)(a) of the Draft Permit requires the Permittee to provide any updated information regarding the design, safety and testing for Facility components, including solar panels, pursuant to 19 NYCRR § 900-10.3.
34b	34	04/28/2022	DMM #21-02480 Public Comments Tab	Additionally, it is important to balance renewable energy generation with the protection of valuable natural assets, such as wetlands, wildlife, and waterways. To the extent that these criteria have been fully satisfied, then I believe the Horseshoe solar project will help advance the goals of the state's CLCPA and bring public benefit to all New Yorkers by generating clean, renewable energy.	
35a	35	04/28/2022	DMM #21-02480 Public Comments Tab	As one of the homeowners in Rush most dramatically affected by this development, I am absolutely opposed to the construction of industrial solar surrounding residential property in an agricultural setting. The project is subsidized by state and federal tax dollars (me). Who is going to subsidize the significant loss in property value I am going to experience as a result of the viewshed COMPLETELY changing?	The Office notes that at this time, the Permittee has not yet selected a panel model to be procured (DMM Record 3, Exhibit 11: Preliminary Design Drawings at 11-1). Office staff will review all selected module and coating technologies for compliance with all applicable state and federal laws (including but not limited to laws regulating PFAS).
35b	35	04/28/2022	DMM #21-02480 Public Comments Tab	In addition, all local wildlife will be displaced and any normal paths/patterns they follow will disappear. This hardly fits with the goal of sustainable programs. As many others have said, there is an abundance of state-owned land or other dormant industrial sites that are far better suited to this kind of construction.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2c regarding wildlife resources and Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52).
35c	35	04/28/2022	DMM #21-02480 Public Comments Tab	Would you, as a private homeowner, be delighted to have views from three sides of your property be nothing but solar panels? The remaining view will be the main road. How exciting.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 30b regarding the assessment of visual impacts; Draft Permit, subpart 6 Site Specific Conditions (SSCs) at 60-71 (DMM Record 32); and Staff's Brief at pp. 10-17 (Permittee's iterative siting process and proposed avoidance, minimization and mitigation measures) and 55-78 Site Specific Conditions included in the Draft Permit for the protection of visual and other environmental resources) (DMM Record 52).
35d	35	04/28/2022	DMM #21-02480 Public Comments Tab	As fellow citizens, how do you feel about the loss of personal property rights? I seem to remember that being enshrined somewhere in our rights as citizens... Please show me where we, as citizens, have given our consent for the state to issue mandates on renewable goals and other programs that override local law and basic property rights.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 4x concerning public engagement, comments 4e, 4i and 4k regarding compliance with local laws and ordinances, and the record, including but not limited to Staff's Brief at pp. 3-8 (procedural background and issues determination procedure), 10-17 (avoidance, minimization and mitigation measures), 17-55 (local law compliance) and 55-77 (SSCs) (DMM Record 52).
35e	35	04/28/2022	DMM #21-02480 Public Comments Tab	We do NOT consent to such egregious devaluation of our property, the destruction of our viewshed and animal habitats, and the complete change of character of our region.	Please see the responses to ORES comments 35a - 35d, incorporated herein by reference.

35f	35	04/28/2022	DMM #21-02480 Public Comments Tab		In closing, if this type of solar development is so fruitful, why weren't companies knocking on our doors LONG before federal and state subsidies (again, MY money) were available? It proves that the Return on Investment simply isn't there without the sham of "public funding."	Comment noted.
36	36	04/29/2022	DMM #21-02480 Public Comments Tab		I strongly support all local scale renewable energy projects in my town, and in general. The benefit to the community and the climate can't be understated.	Comment noted.
37a	37	04/29/2022	DMM #21-02480 Public Comments Tab		I'm a 33 year Rush, NY resident. I would like to let you know I am not in favor of this massive solar project on the prime farm land soil of the Genesee River valley. The only reason we are even here talking about this is due huge Government subsidies to Big Solar companies promised to them by broke government officials. Now local big money land owners want to get in on this yearly money gravy train. We are supposedly doing this because we need to lower the CO2 output from our energy sources. We need to get rid of fossil fuels they say. The science on this is 50/50 at best, but that is for a discussion on another day. I don't believe and I'm not alone in the science world, that a small change, CO2 which is only 0.0415% of the atmosphere could change the climate of the whole earth. The man made part of this CO2 input is calculated to be somewhere between 0.003-.01%. so think about that. They want me to believe, that somehow a small change in that man-made amount is miraculously going to change the climate of the whole earth. And we somehow know what the perfect temperature is and we can set it there. How much more arrogant could we get. I want you to consider this. Look at this project as a whole compared to what they say they want to accomplish. Use Renewable energy to reduce CO2 output. Look at all the energy it takes to produce a solar panel. The CO2 that is released mining all the silicon needed for these panels. Refining the silicon twice over in blast furnaces at 1800 degrees. The amount of copper that need to mined and refined for all of the wiring. The amount of glass that needs to be made. The amount of aluminum that need to be manufactured. And all of the rare earth minerals needed. All of this shipped back and forth across the world. Then all of the energy it will take to truck and install his massive project. The amount of fossil fuels used to do this is tremendous. All because were supposedly saving the earth from a minute amount of CO2. These panels will never save the CO2 it takes to make this project happen.	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
37b	37	04/29/2022	DMM #21-02480 Public Comments Tab		Once built then we have the eye sore solar energy for 25 years, maybe ou ing out, if we're lucky, 13% of its capacity. All because of sun angle, cloud cover, and snow cover. Then at the end of its life cycle we have a massive amount of e-waste. Now were back to using a massive amount of energy to deconstruct this eye sore project. And what to do with these used panel, because they can't be thrown in a dump! Another expensive problem.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2e regarding decommissioning and site restoration, and Staff's Brief at 77-78 (DMM Record 52).Without limitation, Compliance Requirements at Draft Permit subpart 7(I)(b) state that the amount of decommissioning financial security be updated every fifth year throughout the life of the Facility (DMM Record 32).
37c	37	04/29/2022	DMM #21-02480 Public Comments Tab		While were at it we are going to fence off thousands of acres of beautiful land to our wildlife. That just tears me up.	This comment is addressed in the record of this proceeding. For further information, please refer to comment 2c regarding wildlife resources and Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52).
37d	37	04/29/2022	DMM #21-02480 Public Comments Tab		Picture this. The solar field is installed. In the years to come a large hail storm moves over the area and takes out these solar panels. Now we have e-waste leaching in to our environment next to a major river into a great lake. It can't be resolved fast. This is an ecological disaster. And were doing all of this why??? Because we think we're saving some CO2. At least that's how the hoax is sold. In Reality we're only this to funnel money we don't have, to big corporations. Please see the reasoning behind this. Do not trash our town with disaster.	This comment is addressed in the record of this proceeding. Please refer to comment 4f regarding water resources and Staff's Brief at pp. 10-17, 71-78 (DMM Record 52); and see the responses to ORES comments 37a - 35c, incorporated herein by reference.

38	38	04/29/2022	DMM #21-02480 Public Comments Tab		I am a 33 year Rush, NY resident. I would like to let you know I am not in favor of this massive solar project on the prime farm land soil of the Genesee River valley. The only reason we are even here talking about this is due huge Government subsidies to Big Solar companies promised to them by broke government officials. Now local big money land owners want to get in on this yearly money gravy train. We are supposedly doing this because we need to lower the CO2 output from our energy sources. We need to get rid of fossil fuels they say. The science on this is 50/50 at best, but that is for a discussion on another day. I don't believe and I'm not alone in the science world, that a small change, CO2 which is only 0.0415% of the atmosphere could change the climate of the whole earth. The man made part of this CO2 input is calculated to be somewhere between 0.003-.01%. so think about that. They want me to believe, that somehow a small change in that man-made amount is miraculously going to change the climate of the whole earth. And we somehow know what the perfect temperature is and we can set it there. How much more arrogant could we get. I want you to consider this. Look at this project as a whole compared to what they say they want to accomplish. Use Renewable energy to reduce CO2 output. Look at all the energy it takes to produce a solar panel. The CO2 that is released mining all the silicon needed for these panels. Refining the silicon twice over in blast furnaces at 1800 degrees. The amount of copper that need to mined and refined for all of the wiring. The amount of glass that needs to be made. The amount of aluminum that need to be manufactured. And all of the rare earth minerals needed. All of this shipped back and forth across the world. Then all of the energy it will take to truck and install his massive project. The amount of fossil fuels used to do this is tremendous. All because were supposedly saving the earth from a minute amount of CO2. These panels will never save the CO2 it takes to make this project happen. Once built then we have the eye sore solar energy for 25 years, maybe ou ing out, if we're lucky, 13% of its capacity. All because of sun angle, cloud cover, and snow cover. Then at the end of its life cycle we have a massive amount of e-waste. Now were back to using a massive amount of energy to deconstruct this eye sore project. And what to do with these used panel, because they can't be thrown in a dump! Another expensive problem. While were at it we are going to fence off thousands of acres of beautiful land to our wildlife. That just tears me up. Picture this. The solar field is installed. In the years to come a large hail storm moves over the area and takes out these solar panels. Now we have e-waste leaching in to our environment next to a major river into a great lake. It can't be resolved fast. This is an ecological disaster. And were doing all of this why??? Because we think we're saving some CO2. At least that's how the hoax is sold. In Reality we're only this to funnel money we don't have, to big corporations. Please see the reasoning behind this. Do not trash our town with disaster.	This is a duplicate of the comment posted on DMM Record as ORES Comments 37a-d above. Please see the response to ORES Comments 37a-d.
39	39	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and heal hcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
40	40	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, Our farming family has been stewards of our land in this community since 1812. I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and heal hcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and addi tional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you, 6th Generation Farmer	Comment noted.

41	41	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will help to move us closer to energy independency and free us from our fossil fuel addiction, as well as the related air and water pollution associated with oil and coal based energy production. Invenergy has a workable plan to utilize currently low-producing farmland and to help to bring it back to productive levels over the lifetime of the project. I am satisfied with the due-diligence and study of the relevant data that this is a direction that the Caledonia community should proceed. Thank you for the opportunity to contribute my thoughts. Professor Emeritus Rochester Institute of Technology	Comment noted.
42	42	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
43	43	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
44	44	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to both Monroe and Livingston countries. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create many local jobs during construction. Horseshoe Solar will continue to use land for agriculture and will maintain its natural environment. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.

45	45	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
46	46	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
47	47	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I live in close vicinity to the proposed Horseshoe Solar site in Rush, NY and wish to make my ardent support known. I believe it is critical to be responsible stewards of Earth and support clean energy efforts. I have the pleasure of my own solar array atop my net-zero home, but knowing that not all people have the means or situation (or motivation...) to do the same makes large-scale installations all the more needed. I do as much as I can to protect the planet to ensure a safe and healthy environment for my son and all future generations, and I would be proud to live in a town that shares this commitment. I have been very disappointed by the vocal dissenters, false information spreaders, and town government for not leading in this regard. It's time to move this project forward. I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.

48	48	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
49	49	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
50	50	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
51	51	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.

52	52	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
53	53	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
54	54	05/02/2022	DMM #21-02480 Public Comments Tab		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional high-skilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you.	Comment noted.
55	55	04/25/2022	DMM #21-02480 Public Comments Tab <u>Duplicate copy received:</u> Emailed to general@ores.ny.gov on 4/25/2022 by Town of Rush Conservation Board		The Rush Conservation Board submitted a statement and raised these issues: disruptions of habitat, impact on town-owned land, ground cover, effect on rural environment, archeological preservation, tax abatement, decommissioning and disposal of the panels and other uses of the property.	The Office acknowledges the comments of the Town of Rush Conservation Board, which are addressed in the record of this proceeding. For further information, please refer to the record, including but not limited to: comment 2c regarding wildlife resources; comment 4f regarding wetlands, waterbodies and streams; comments 1, 4n and 4t regarding archaeological, historic and cultural resources; comments 4e and 4k regarding land use; comment 30b regarding visual impacts; and comment 2e regarding decommissioning and proper disposal of solar facilities. Without limitation to the record, the Permittee has eliminated approximately 324 acres of solar arrays from the Town of Rush to avoid, minimize and mitigate potential significant adverse environmental impacts to the maximum extent practicable (see Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52)). The Draft Permit includes Uniform Standards and Conditions for construction notification at subpart 5(II), and Construction Management Compliance Requirements at subpart 7(I), including without limitation requirements for a Vegetation Management Plan, Environmental Monitoring Plan, Complaint Management Plan, Traffic Control Plan and Invasive Species Management Plan (DMM Record 32). With respect to the Board's concern regarding agricultural tax abatements, in compliance with Executive Law 94-c(5)(f) the Permittee is required to provide a host community benefit to the Town of Rush, which may include a potential Payment in Lieu of Taxes (PILOT) agreement with the Monroe County Industrial Development Agency and other agreements providing certain revenues to the Town, County and local School Districts. See Exhibit 27 Socioeconomic Effects at pp. 27-7 -- 27-9 (DMM Record 6). In the event that a final siting permit is issued, the permit is only valid for the current project and remains subject to enforcement oversight by the NYS Department of Public Service in compliance with 19 NYCRR subpart 900-12.

56	56	5/4/2022	DMM #21-02480 Public Comments Tab		I see a large number of ALMOST IDENTICAL comments from people who are in favor of the HSS LLC build in Rush and Caledonia. These are obviously mere FORM responses from a template offered by agents of Invenergy to support their energy proposal. The fact that these respondents have not even taken the trouble to find out the pertinent agents of the Department of Public Service, and instead, write to "To Whom it May Concern", demonstrates a frightening LACK of participatory responsibility. This is equivalent to copying US paper currency in a copier (Xerox, Lexmark, or other) and having it pose as legal tender.	The Office acknowledges that a number of comments for and against the proposed Facility expressed similar viewpoints. All comments have been considered.
57			4/26/2022 Virtual Public Statement Hearing		My name is Amber Corbin. I'm the Deputy Supervisor in the Town of Rush. I'm a retired environmental science teacher and a longtime Rush resident. I live at 8 Meadowood in the agricultural and farming community of Rush. First, I'd like to state that the Town of Rush supports renewable energy. Our local solar law states the intent is to both encourage the use of renewable energy systems based on sunlight, while at the same time protecting the health, safety, and general welfare of the residents of the Town of Rush. My objection to Horseshoe Solar is not a not my backyard reason. The Town of Rush is a unique town. I live on the same property that I grew up on and the same property my father grew up on. You need to understand and grasp that 500 generations of indigenous people that lived here long before we did. The Town of Rush has always assured that our cultural resources serve as a cultural bridge linking our historic past with many generations of the future that's right out of our comprehensive master plan. We must all respect and honor our cultural resources. The Town of Rush is well documented in our comprehensive master plan, museums across New York State, and in scientific literature, as to its rich cultural resources and the sacred lands of the Seneca. My father Charles Ray was one who wrote many of those resources. The entire area where Invenergy wants to build in Rush, the panels, the operation and maintenance, building, and the new substation, is on sacred lands. It's been documented for centuries. New York State can cite large scale renewable energy projects in the right locations. The town lands in Rush are not those lands. Why does New York State and Invenergy not see that. Invenergy representative, Marguerite Wells, visited my home in 2019 in Rush. She also, at a 2019 town board meeting in the town of Rush, was asked why Invenergy was not looking at building their project on the New York State owned lands at the New York State School of Industry in Rush. Her reply, I recall, was New York State takes too long. So New York State and Invenergy have New York state owned lands. They have an abandoned landfill on those New York State owned lands, and yet they are not putting their project here. Instead, Invenergy wants to take the easy road, put their massive project on some of the best farmlands in New York State, bypass the local laws of the Town of Rush, and disrespect the sacred final resting places of the 500 generations of indigenous people. This should be unacceptable to everyone. As we're currently seeing in the world today, that some countries can overtake smaller countries because they want to. I'm hoping that tonight you can see that what New York State and Invenergy is doing to the Town of Rush is just as we are seeing on the larger world scale. There are options that Invenergy has had since 2018 with their original project, to build their project in Caledonia with a POI in Caledonia. Invenergy does not need the Town of Rush to build its project in Caledonia. The Town of Rush is doing its part to meet the New York State climate end goal by citing renewable energy projects to the right size, the right locations, and respecting our cultural resources. Thank you very much.	These comments are addressed in the record of this proceeding. For further information, please refer to the Decision of the Executive Director, the ALJs Ruling on Issues and Party Status, and Order of Disposition (DMM Record 37), Staff's Brief (DMM Record 52) and Staff's responses to comments herein, for example: comment 1 regarding cultural resources; comment 2a regarding protection of agricultural resources; comment 4n and 4m regarding cultural resources and the point of interconnection (POI) substation; and comment 2d regarding consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits of the proposed Facility.
58a			4/26/2022 Virtual Public Statement Hearing		My name is John Morelli, J-O-H-N,M-O-R-E-L-L-I. I live in Rush. I've been here for 30 years. So I'm a new -- new guy. I -- I wanted to begin -- what I have to say has been researched and -- and -- and I believe, very factual. But Judge Caruso, you made a statement about the application being determined complete by -- under Article 10 and then transferred to 94-C. And -- and I gotta tell you, you know, my -- I don't have any evidence to support this, but it did seem like the application was determined complete specifically, in an accommodation to its transfer to 94-C. That it just came out of the blue when 94-C came around, it just happened, so. But let me tell you what I want to say here. I -- I would like to say that if you throw money out there, make it available, companies will come regardless of the wholesomeness of the internet. Of the -- I'm sorry, the internet -- the intent. So you have to be careful what you wish for, especially when you represent government. Now, I believe, and I believe I can document that the Town of Rush, New York, is doing more than its part to battle climate change.	On December 23, 2021, the Permittee filed an application to transfer review of the proposed Facility to the Office pursuant to Executive Law § 94-c. The Application was deemed complete by operation of law under Executive Law § 94-c(4)(f)(i). As required by Executive Law § 94-c and the Office's regulations at 19 NYCRR Part 900, the Permittee's Transfer Application included the full Article 10 Application, along with supplemental materials demonstrating the proposed Facility's compliance with the Office's USCs at 19 NYCRR Subpart 900-6. (See e.g. Transition Supplement Overview, DMM Record 8). For additional information regarding the Facility's compliance with Executive Law § 94-c requirements, please see Staff's Brief at pp. 3-6 (DMM Record 52).
58b			4/26/2022 Virtual Public Statement Hearing		The Town of Rush is dedicated to agriculture. In view of their relative paucity of prime farmland in New York State compared to the relative abundance of the same in the Town of Rush, it's essential to understand the importance of this fact. Only 5 percent of the land in the entire State of New York is considered prime farmland. In the Town of Rush, 84 percent of the land is prime farmland. And while the Town of Rush represents only .06 percent of the total land in New York State, it contains over 17 times the average amount of prime farmland per acre for New York State. In view of the climate change related uncertainty for food production in the not so distant future, we must zealously preserve and protect our prime farmland. These are things that have been important to us in the past. There are so many better places in New York State. There's 90, you know, something percent -- 80, you know -- in New York State to develop solar facilities, then on prime farmland in the Town of Rush. We need to recognize this as valid and meaningful. New State Ag and Markets acknowledges the land east of the Genesee in Rush as valuable, highly productive farmland best suited for rotation crop production, and has charged that some of the most productive agricultural land in this area will no longer function as active rotation cropland -- cropland, in conjunction with construction of Horseshoe Solar facilities, impacting the agricultural viability of this area. It recommends other sites be explored.	With regard to potentially significant adverse agricultural impacts, the Office recognizes the importance of conserving highly productive agricultural lands in New York State. Please see the Office's response to Comments 2a and 7a above for additional discussion of the proposed Facility's compliance with NYSAGM Guidelines for Solar Projects, and the Office's Uniform Standards and Condition and Site Specific Conditions for the protection of agricultural resources. As stated in Comment 7a, "[t]he Office's position is that the two uses -- farmland and renewable facilities -- can coexist and still maintain economic viability, particularly when crop production and prices are affected by severe weather events or the global economy, which can reduce income for farmers and agricultural communities. Further, unlike other types of electrical generation facilities, the Office maintains the position that, at a minimum, the use of cover crops to the extent feasible on facility sites will continue to preserve nutrients on farmland that can later be utilized for agricultural uses. Accordingly, 19 NYCRR 900-2.16(e) addresses concerns about the co-existence of agriculture and renewable energy. The applicant may provide a co-utilization plan including itemization of the investments made to facilitate the agricultural co-utilization." Assessment of Public Comments for 19 NYCRR Part 900 at p. 82. As also noted in Comment 7a, "[r]estoration of active agricultural lands will be completed in accordance with guidelines of the [NYSAGM]," in compliance with the terms of 19 NYCRR 900-6.1(a) and the Permittee's proposed Decommissioning and Site Restoration Plan at Exhibit 29: Site Restoration and Decommissioning (DMM Record 6 at 29-1). Further, the Office imposed a SSC at subpart 6(k) of the Draft Permit (DMM Record 32, pp.65-66) requiring the Permittee to provide and implement a Final Co-Utilization Plan. Accordingly the Office concluded that the Permittee had avoided, minimized and mitigated potential significant adverse impacts to agricultural resources to the maximum extent practicable.

58c			4/26/2022 Virtual Public Statement Hearing		The Town of Russ -- Rush is dedicated to solar energy. In May of 2016, New York State published its Model Solar Energy Law to assist communities in New York State adopt zoning provisions to promote solar energy systems. In 2018, the Town of Rush began developing an addi ion to its own zoning law to add a new section for solar energy systems based on -- based on the New York State Model Solar Energy Law. The town of -- the town Solar Energy Systems Law was passed in March of 2019, and later revised in October of that same year. The intent of the law is to encourage the use of solar energy systems, while at the same time protect residential properties, agricultural land, and the town's rural and agricultural character. Roof mounted solar energy systems are permitted in all zoning districts. Backyard solar energy systems are permitted in the yards of all zoning districts -- districts, and they're exempt from site plan review. Plus, 150 acres of large scale solar energy systems are permitted on over 90 percent, 150 acres town wide on 90 percent of the land in Rush. So the Town of Rush is dedicated to doing its part to meet the statewide energy goal of 6,000 megawatts of renewable energy. The Town of Rush has committed 150 acres of land to be developed into large scale solar facilities. This is in addition to all the roof mounted and backyard systems. A hundred and fifty acres of large scale solar can generate 40 megawatts of electricity. This is at least five times what might be expected on a per town basis in the 933 towns in the State of New York. This is at least nine times what might be expected on a per square mile basis, and about 28 times what might be expected on a per person basis in New York State. New York State simply refuses to acknowledge the Town of Rush's efforts. New York State created a series of renewable energy goals, related, acts and, specialized offices that focused on outcome but neglected process. It really did. What needs to be considered? Who should participate? New York State did not provide local municipalities any opportunity to meaningfully participate in these efforts. New York State, instead, allied itself with industry to write state policy, override New York State constitutional home rule provisions, and forge ahead without any recognition of efforts made by local municipalities to contribute. New York State and its individual partners did not adequately consider variations in insulation, the amount of energy that strikes the earth across the -- across the state. It varies. It varies significantly. New York State further diminished constitutional home rule provisions by replacing Article 10 with USC Section 94-C. New York State chose not to evaluate he cumulative environmental, cultural or leadership impacts of implementing the climate leadership and Community Protec ion Act, and the Accelerated Renewable Energy Siting Act and Community Benefit Act. The Town of Rush is doing more than its part. It is an example of true democratic leadership in the state. We ask that New York State pay atten ion. Thank you very much.	These comments are addressed in the record of this proceeding. For further information, please refer to the Decision of the Executive Director, the ALJs Ruling on Issues and Party Status, and Order of Disposition (DMM Record 37), Staff's Brief (DMM Record 52) and Staff's responses to comments herein, including comments 4e, 4i and 4k regarding land use; comment 4x regarding public and local municipal engagement; and comment 2d regarding consistency with New York State energy planning objectives, contribu ions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits of he proposed Facility. Without limitation to the record, Executive Law § 94-c and the Office's regulations at 19 NYCRR Part 900 establish a clear standard to apply in evaluating the potential significant adverse impacts that may result from the construction and operation of the proposed Horseshoe Solar Facility. This standard follows the hierarchy of avoiding, minimizing, and mitigating potential impacts to the maximum extent practicable, thus balancing the need to efficiently advance the major renewable energy facilities that are critical to meeting renewable energy requirements of the CLCPA. This standard also ensures the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit (or not permit) such facilities, as required by Executive Law § 94-c(1).
59			4/26/2022 Virtual Public Statement Hearing		Good evening. My name is Janet Glocker. My last name is spelled G-L-O-C-K-E-R. I've lived in the Town of Rush since 1976. I live in a cobblestone house that was built in 1834. We bought this house from a family who farmed this land since just after the Civil War. I want to speak about Rush's indigenous cultural resource, the cultural genocide that will exist if we cover the land east of the Genesee River with solar panels. The New York State's definition ofenvironmental justice says: Environmental justice is the fair and meaningful treatment of all people, regardless of race, income, national origin or color, with respect to the development, implementation, and enforcement ofenvironmental laws, regulations, and policies. I'm going to give you statements by President Pagels, President of the Seneca Nation of Indians, documents filed by representatives of the Tonawanda Seneca Nation of Indian. I will also reference documents between the office of SHIPO, the State Historical Protection Office, and Invenergy, and Pan American, who did the environmental impact or the indigenous impact of Horseshoe Solar. We should listen to the requests made by these individuals whereverground disturbances might occur. Tens of thousands of years ago in the Genesee River Valley, our first residents lived lives described by New York State. The Tibiola Report, which is entitled The Cultural Landskip -- Landscape, sorry, of the Genesee Valley, documents 500 generations of human habitation. This document is important. It has been acknowledged by SHIPO. It sets the tone for the -- many of the comments I will be making. In November of 2018, it was announced that Horseshoe Solar would be built, if approved, all in Caledonia. It would produce 180 megawatts. It would use 600,000 solar panels built on 2,600 acres of land. The point of insertion was going to be on leased reclaimed quarry land Therefore, there were probably few burial sites or village locations. This announcement means that Horseshoe Solar had a viable business plan in Caledonia. It had a point of insertion to the grid. It needed no additional land resources. But by extending the proposed industrial solar plant into Rush, it meant disturbing the ground inWestern New York's most culturally rich, sensitive indigenous land according to SHIPO. In December of 2018, there was an ini ial consultation submission. Dr. Jocelyn Ferguson of SHPO, requested maps and narratives about all ground disturbing impacts, including such things as mounting systems, access roads, and trenches. She asked for this information for Marguerite Wells, Horseshoe Solar's director. In February of 2019, now Horseshoe Solar comes across the Genesee River into the Town of Rush. It is still north of Routes 5 and 20, which is where the circumscribed Conowingo's reservation is. But importantly, a POI is now at goal. There has been no change in megawatts,no change in the number of panels, but 1200 more acres.Marguerite Wells told many people in Rush that lands in Rush was not needed, which of course supports the sufficiency of the business plan that was announced exclusively for Caledonia.Between August 14th and August 16th of 2019, there were a series of email's concerning geotechnical boring between Pam American and Jocelyn Ferguson, with copies to Andrew Davis at the Department of Public Service. Also in those email's, there was a discussion of who should notify the nation. Handley, of Pan American, said that test borings consisting of drilling an approximate eight inch diameter hole in the soil to a depth of approximately 20 to 25 feet below grade. It would be back filled with the auger cuttings, and depending on where the soil was drilled and located, other potential ground disturbances may include driving a rubber track mounted drill rig across fields, down existing farm parkways, driving a support truck to or nearby the boring location. In addition to test borings, Pan American was proposing to excavate 16 test pits using a small excavator. The excavation at each levelwill be two to three feet wide and up to 12 feet	These issues are addressed in the record of this proceeding. For further information, please refer to the Decision of the Executive Director, the ALJs Ruling on Issues and Party Status, and Order of Disposition (DMM Record 37), Staff's Brief at pp. 58-67 (DMM Record 52) and comment 1 above regarding cultural resources (including consultation with OPRHP/SHPO and Indigenous Nations), comment 4m regarding Environmental Justice, and comments 4n and 4t regarding cultural resources, the point of interconnection (POI) substation in the Town of Rush, and potential visual impacts to cultural resources.

60			4/26/2022 Virtual Public Statement Hearing	My name is John Kaman, K-A-M-A-N, and I live in the Town of Rush. I'd like to talk today about home rule. Home rule is government of a region by its own citizens. Article 9 of the New York State Constitution is commonly referred to as home rule, for it provides both an affirmative grant of power to local governments over their own property and affairs and restricts the power of the state legislature. What home rule means to our Town of Rush, it means we have a voice in what happens or doesn't happen in our town. There are over 70 homes in Rush which will be directly affected by Horseshoe Solar's industrial solar facility. Those citizens who purchased their homes in Rush believed when they bought their homes that home rule would apply and that the town would regulate land use. Most of these homes were zoned residential R-30 or R-20 at the time of purchase, and the residents felt they were adequately protected by these zoning regulations. To further ensure how solar was regulated in their community, the residents of Rush worked in conjunction with elected town officials, landowners, and Residents United, to craft the Rush Town Solar Energy Systems Law in 2019. The resulting legislation was a compromise between the various constituent groups. It's a true expression of home rule and should not be bypassed by ORES or any other state agency. Keep in mind that Rush is not anti solar, quite the contrary. Under the Town of Rush solar law, solar installations are allowed in the Town of Rush not to exceed a total of 150 acres. Now HSS is requesting that ORES provide relief in the form of waivers from numerous subsections of Rush's solar law. As some examples, Rush's solar law says solar facilities are limited to no more than 12 feet. HSS challenged this requirement and ORES waived this requirement and will allow an overall height of 17 feet. Keep in mind that there are over 70 houses in Rush that may be in the view shed of this industrial solar facility. Rush's solar law also has location and setback restrictions of 1,000 feet from certain zoning districts. Only a small amount of the town is under these particular zoning categories. These areas are heavily populated and that is why Rush's solar law requires the 1,000 foot setback from these zones. Rush's solar law also requires screening from adjacent properties. HSS also challenged this requirement. ORES has waived this requirement. There'll be no screening required to block the view on 17 foot high solar panels. Therefore under home rule, the Town of Rush's local solar laws should not be ignored or waived by ORES or any other state agency. And rather than a wholesale abandonment of the town solar law, each element needs to be carefully examined by ORES with a detailed analysis before waiving or ignoring any of the provisions of the law. Thank You.	These comments are addressed in the record. For further information, please see the responses to comments 4e, 4i and 4k and the record in this proceeding, including but not limited to the Office's findings with respect to local laws and ordinances and any related Site Specific Conditions (SSCs) in subparts 4 and 6 of the Draft Permit, respectively (DMM Record 32); Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-77 (SSCs) (DMM Record 52); the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56); and the Decision of the Executive Director,
61a			4/26/2022 Virtual Public Statement Hearing	My name is -- is Fred Webb, and I live at 3911 Caledonia Avon Road. I'm -- I'm going to be rather brief. I'm not going to be reciting any laws and -- and -- and impact studies. The previous commenter's have already presented impact studies and information and historical impacts. Unfortunately, primarily in Rush. I live in Caledonia. To that point, I will speak about the house -- Horseshoe project and how it will affect myself and my family. This project, which is more than significant than any other installation in New York. First and foremost, I want to say that both my wife and I are passionately opposed to this massive solar panel installation, which will virtually surround our house. Literally surrounded our house. It will be less than 100 feet from my backyard. It is -- it is taking up hundreds of acres of fertile farmland. My wife and I have lived in this house for 42 years. We've raised our children here. We've hosted family gatherings with our children and grandchildren. Enjoyed the peaceful tranquility of our rural life. However, that peaceful tranquility is now threatened by this project. One of the significant things is that, you know, Rush -- there -- there's been a lot of talk about Rush, but Caledonia is going to host the majority of these panels. And from -- from my understanding, we're talking roughly 600,000 panels. And again, it's going to be directly affecting myself and my neighbors. My neighbors are also going to be directly surrounded by this -- this installation. In hearing some of the commentators indicating that there will be no blockage, 17 foot high panels with no blocking. So I cannot sit in my backyard or actually in my sun room and look out over the areas that I've enjoyed for 42 years without seeing these massive gigantic solar panels.	These comments are addressed in the record of this proceeding. For further information, please see the Decision of the Executive Director, the ALJs Ruling on Issues and Party Status, and Order of Disposition (DMM Record 37), Staff's Brief at pp. 10-17, 17-29, and 56-57 (DMM Record 52), and comments 4i and 4k regarding local laws and ordinances, and comment 30b regarding visual impacts. In response to concerns about setbacks, the Permittee engaged in an iterative siting process that included the coordination of mitigation measures with certain proposed setbacks, to provide sufficient space for the Facility to be constructed and attain 180 MW of renewable energy generation while also complying with local requirements to he maximum extent practicable. However, Staff was not persuaded to approve complete relief from Caledonia Town Code § 106-9(C)(1)(a), as it found that doing so would be inconsistent with the Permittee's prior agreement to follow certain setbacks in certain areas along State Route 5 and West River Road, identified as locally sensitive and important during the Article 10 municipal consultation process (see Exhibit 9:Alternatives, DMM Record 3, pp. 9-4 and Substantive and Significant Brief, DMM Record 52, pp. 20-25). Following the setbacks in these locations will reduce visual impacts and maintain the rural character of the community. Accordingly, as per subparts 4(a)(i) at pp. 7-8 and 6(a)(3) at pp. 61-62 of the Draft Permit (DMM Record 32), the Permittee is required to adhere to local setbacks in these locations. Additionally, the Draft Permit contains Site Specific Conditions (SSCs) requiring a final Visual Impact Minimization and Mitigation Plan (VIMMP) and Cultural Resources Avoidance and Minimization Plan (CRAMMP), to be provided as a mandatory pre-construction compliance filing (DMM Record 32 at subparts 6(b) and (6e)). The Permittee and Town of Caledonia have also entered into a Stipulation Regarding Settlement of Contested Issues dated August 19, 2022 (DMM Record 63), requiring that solar arrays in proximity to 3853 Caledonia Avon Road be setback from Route 5 a minimum distance of 250 feet and 750 feet from any existing non-participating residence to maintain a sense of openness in the view. The stipulation also requires landscaping including a Hedgerow In-Fill planting buffer and a Dense Hedgerow planting buffer to mitigate views of the Facility.
61b			4/26/2022 Virtual Public Statement Hearing	Also, one of the things I want to bring up is that -- and Caledonia had no direct representa ion on the siting board initially. An individual from Rochester was appointed instead. And as -- again, as I said, Caledonia will support the majority of these panels.I've spoken several times with Invenergy on -- on -- on these certain concerns that we have about, you know, the sheep grazing there to -- to keep the vegetation down.	This comment refers to the Article 10 process. Please see the response in ORES comment 58a regarding this Facility's transfer to Executive Law § 94-c.
61c			4/26/2022 Virtual Public Statement Hearing	You know, how they're going to clean these panels. What -- what types of chemicals are going to be used. How it's going to affect our wells.	These comments are addressed in the record of this proceeding. The Permittee stated that the only bulk chemicals to be stored on site will be fuel oil and hydraulic oil. Notably, mineral oil will also be present (within transformers) but no risk of release to the environment is anticipated (Exhibit 23 Revision 1, DMM Record 8, pp. 23-13 – 23-15). The Permittee will minimize potential adverse impacts to wells, surface water, and soils through precautions contained within the Spill Prevention Control and Countermeasure plan (SPCC, Appendix 23 d, DMM Record 8). Precautions include training technicians in proper handling of oil transfer equipment and utilizing secondary containment systems. Additionally, as per Draft Permit subpart 5-IV(n), the Permittee will adhere to USCs containing provisions for Water Supply Protection, including protection and testing of wells (DMM Record 32).
61d			4/26/2022 Virtual Public Statement Hearing	Impacts on property values. You know, we -- we just -- just had our property reassessed. My property values went up or my property assessment went up \$35,000. And in a recent study by the University of Rhode Island, a 15 year study indicated that people that live wi hin a -- a mile of a solar installation, 1.7 percent decrease in their house values. Those that live closer, a 7 percent decrease in property values. So I have a very severe concern about this project, literally, you know. And I'm gonna say yeah, literally in my backyard. Okay. People -- you know, people are concerned about, you know, indigenous populations, you know, and -- and -- and historical ramifications. But what about direct effects of people that are going to live near this monstrosity? And pretty much that's all I got to say. This is from someone that's actually got to live this nightmare. Thank you.	Please see the response in ORES comment 31d regarding property values.

62			4/26/2022 Virtual Public Statement Hearing	My name is Susan Mee, and I'm also a longtime resident of Rush. I am also the town's historian. I don't wish to repeat what has already been stated, but I would like to remind the panel again the importance of the land areas bordering the Genesee River. This area is the ancestral home of the Native Americans that lived in this region long before the European settlers arrived on this continent, or even thought about this continent or knew of its existence. And it's certainly -- were here long before the pioneer families made their way to settling in Rush. Much of the acreage is sacred land that was once hunted, fished, and provided life to the Seneca Nation, as well as a final resting place. Historic homes, barns, and cemeteries will also be impacted by the proposed Horseshoe Solar project. Area cemeteries are the final resting places for our town's early citizens. And many of those are also veterans of our country's early wars, including the American Revolution, the War of 1812, and the Civil War. Those areas deserve a peaceful resting place. The land is culturally and historically important to our town. The Town of Rush celebrated its bicentennial in 2018. This event has brought an increased awareness in our town's history. And as a result, the Rush Historical Society was reformed in 2018 after disbanding in the early 1940s. Renewed interest in our town's past and increased interest in the areas for settlers, early pioneers, has resulted in further recognition to the natural beauty, cultural importance, and history that surrounds us. One of the most significant and unique features of Rush is that it has maintained -- maintained its rural character and small town feel over the years. I sincerely hope the negative impact by the proposed Horseshoe Solar project will be carefully considered. Thank you.	The comment is addressed in the record of this proceeding. For further information, please reference comments 1, 18a, and 18b regarding cultural resources and Staff's Brief at pp. 58-67 (DMM Record 52).
63a			4/26/2022 Virtual Public Statement Hearing	Okay. Hi. Robin Rapport. It's R-O-B-I-N, R-A-P-P-O-R-T. I am a resident of Rush. I have been for quite some time. And I would like to underscore many of the previous comments, but add a few of my own. The first one is -- is having been an ad hoc member of the original siting board, in quotation marks, discussions on the -- the siting of Horseshoe Solar. I -- I have been amazed by the relative lack of responsibility by both the New York State agents and the Horseshoe Solar agents with regard to the Department of Public Services own regulations. My first contact with these began with the fact that Horseshoe Solar added, as a last minute afterthought, Rush land to their proposal, without giving the Town of Rush time to consider or understand what that meant. Now, I filed a claim with the ALJ, to indicate that Horseshoe Solar was not following rules, and that -- that -- that acknowledgement was granted and resulted in a delay of -- of a few weeks, if not few months -- I forget now, prohibiting additional work on the Rush portion of the discussions by Horseshoe Solar until a suitable time elapsed. Okay. That was the beginning. What I see now, and I filed in a document, is that back in June of 2019, I raised the issue that the stated requirements in both Article 10 requirements and ORES 94-C requirements, of a five mile study zone were ignored by Horseshoe Solar and their agents. When I raised this to the ALJ I got a non-substantive answer indicating no action was being taken on that statement.	This comment refers to the Article 10 process. For further information on the Executive Law § 94-c review process, please refer to comment 58a regarding this Facility's transfer to Executive Law § 94-c; comments 4t and 30b regarding visual impacts; and comment 4v regarding the study area for historic resources.
63b			4/26/2022 Virtual Public Statement Hearing	I raise it again now. Now that it has moved to 94-C, ORES, there is still a requirement for a five mile study area and request that the whole process be halted until Horseshoe Solar meets the requirement and submits a complete study, both geological and cultural buildings, view site, everything, for the five mile radius that they have allegedly done for the two mile radius. Okay. Which brings me to the second point, which is that in the Pan American consultants document of visual area, they call it APE, visual area of potential effect, there are numerous errors that I understand because they concern me and my house, and my neighbor's house. And they are -- are totally erroneous errors. And as a result, I question whether any of the information in that document is truly coherent and accurate. Now, to -- to put down 600,000 solar cells, solar arrays, whatever, taking up approximately 3,000 to 4,000 acres of space, I understand that the actual active area will be less than 3,000 acres. But the bounded area being concerned is 4,000 acres roughly, which is six square miles. That is not a small area. Six square miles is basically lower Manhattan all the way up to Central Park. It's a huge area. The fact that it's on farmland by residences, private residences, is -- that's a significant problem for the residents.	This comment is addressed in the record of this proceeding. For further information, please see comment 4v which references the two-mile study area for historic resources consistent with OPRHP/SHPO guidelines (see DMM Record 4, OPRHP Information Request dated 4/9/19; DMM Record 4, Appendix 20b: Architectural Survey at 1-2, 3-3; and OPRHP/SHPO "Guidelines for Solar Facility Development Cultural Resources Survey Work" July 30, 2020). As noted in comment 4v, the Office's regulations also allow a two-mile visual impact study area for solar facilities pursuant to 19 NYCRR § 900-2.9(b)(1).
63c			4/26/2022 Virtual Public Statement Hearing	The other issue is the movement from Article 10 to 94-C, was sudden and it left a number of issues which had been opened in the Article 10 hearings, unclosed. Basically, unresolved, as late as June when Chairman -- when the chairman of the DPS -- and I forget his name, I'm sorry, raised the issue saying that the -- the compliance had been completed for -- for Horseshoe Solar, but that there were still some outstanding issues. And he called the OSHPC as one of them. That still had not been addressed by Horseshoe Solar. Now, I see in the postings for ORES, which is one to two months, depending how you count this, after the -- the Article 10 was closed. There was a series -- a series, over 100 postings from Horseshoe Solar. Some dating back a full year, and obviously they had not been revised to indicate compliance with the issues that were being raised. Now, I've read through some of these and they are not compliant.	Please see the response in ORES comment 58a regarding this Facility's transfer to Executive Law § 94-c.
63d			4/26/2022 Virtual Public Statement Hearing	The -- the one about from the FAA effect on navigation, effect on transportation, states from the FAA that this -- the -- the -- the -- the document that the FAA furnished through Horseshoe Solar was -- was out of date as of October last year. So, effectively there is no statement from the FAA that concerns the current state of Horseshoe Solar's intent and what its effect may have on -- on planes or airport behaviors. There -- I -- I am -- I am just appalled by the lack of responsiveness for the VPS. I -- I forget that -- that the -- the legal agencies that Horseshoe Solar has -- has hired, their job is to make sure that their clients requirements and needs are satisfied. I understand that. But I do not understand how the New York State Department of Public Services can allow the negligent behavior of this company and their agents to continue. I -- I -- I guess I'm -- I'm really finished at this point, but I will file additional documentation. Thank you.	The comment is addressed in the record of this proceeding. In response to concerns about public health and safety, the Permittee provided a FAA "Determination of No Hazard to Navigation" letter (DMM Record 6). Further, as per Draft Permit subpart 7(l)(a), the Permittee is required to submit all federal and federally-delegated permits and approvals required for construction and operation of the facility, including updated FAA Approvals, as pre-construction compliance filings (DMM Record 32).

64			4/26/2022 Virtual Public Statement Hearing		Hi. Good evening. I'm Kathleen Krenzer-Stein and I am a resident of Caledonia, and I am here to speak in favor of Horseshoe Solar. I will disclose that I do have a family member involved in Horseshoe Solar, but I am not part of that entity by any means. People both in Rush and Caledonia are concerned about green. That is well understood and we all should be. I do want to thank Horseshoe Solar for looking into some of the concerns that the people of Rush did express in tonight's dialogue regarding sacred burial grounds, etcetera. To the best of my knowledge, and I may be incorrect, but it is my understanding that all lands regarding sacred burial grounds have been removed from the proposed site. There is no longer any solar on the south side of Route 5 going out of Caledonia due to that reason. I believe the same is true for lands near Golah Road in he town of Rush. So as far as Horseshoe Solar not taking into consideration the sacredness of the ground, I would have to disagree with that and those comments wholeheartedly. I feel listening to Horseshoe Solar, both in their informational meetings, at the Town of Caledonia meetings, they have tried to work with both the land owners and the property owners around them. I understand nobody wants solar behind them, around them, due to the aesthetics. But I think each of us own a cell phone. Need a way to charge it. It cannot all go on rooftops. The capabilities of doing that are nearly impossible. And I just hope that Horseshoe Solar can -- can continue on with their application. And that everybody has a right to their opinion. And that this does not turn friendships because people can be nasty and people cannot -- can be not nice. And we all have to give and take in this world, it's not up to just one person to make the rules. So I appreciate you listening to our comments tonight.	Comment noted.
65			4/26/2022 Virtual Public Statement Hearing		All right. Good evening. First, I'd like to thank the Office of Renewable Energy Siting for the opportunity to speak today regarding the proposed Horseshoe Solar project. My name is Austin Kuntz, A-U-S-T-I-N, K-U-N-T-Z. And I'm a union organizer and labor representative for Laborers Local 435. And would like to voice my support for the Horseshoe Solar project. This project will bring hundreds of prevailing wage jobs to local men and women who expect to work on this project. Prevailing wage projects not only provide local workers wi h available hourly wage, but it will also provide them with -- them and their families with health care benefits and a suitable retirement. Local job creation will provide a boost in local economic growth as will a \$30 million in a long term stable tax revenues provided by Horseshoe Solar. This will allow communities to fund local infrastructure projects and public services without the need to raise local taxes. Lastly, solar energy is a way of the future and allows municipalities to be self sufficient with locally sourced clean energy, while allowing New York to be distant from self -- from an imported fossil fuel power. This project alone will produce 180 megawatts of clean energy for over 50,000 homes annually. And all residents of Monroe and Livingston counties will benefit both economically and environmentally from the approval of the Horseshoe Solar project. Thank you for your time and have a good evening.	Comment noted.
66			4/26/2022 Virtual Public Statement Hearing		My name is Marianne Rizzo, M-A-R-I-A-N-N-E, R-I-Z-Z-O. Thanks for having me tonight. I'll just speak on a couple of the issues and one is the home rule issue. You know, our community got together for months and months in town board meetings and we discussed what is it going to look like integrating solar installations into our community. And we had a really good process and we concluded with some laws. And some of those laws were -- well, one of the laws was on the height of the panels. And the height of the panels hat our town decided was 12 feet. And as I understand it, Horseshoe Solar could have panels of 17 feet. And that's -- that's just something that -- that, you know, I just think that you should give the townspeople, have them be able to voice their opinions on the height of the solar panels. Seventeen feet is quite large, especially if it's 100 feet or 200 feet away from your -- your own dwelling. Like, think about maybe staring at the back of some panels or the front of some panels, it's quite -- quite high. And then another home rule law that we set into place in Rush -- sorry, I don't think I identified myself as living in Rush -- is complete screening. I know -- I -- I think if you want to make solar renewable energy, which is very important, is you want to make it palatable to the community, you have to -- to find ways to make it acceptable to the community. Complete screening is a win-win. And I assumed there was going to be some screening. But we have in our home rule law, complete screening, and that would just make it much more acceptable to community members, and along with the size of the panels. So right now, I mean, it sounds to me like there'd be very little screening. It just -- it really does not make sense. So I just hope that you will... And we did decide as a community to allow 150 acres of solar panels within our town. And based on the side of our -- size of our town, you know, that was -- that was doing -- like one of our townspeople says, more than our part. So thank you for listening and I hope that you can at least abide by our home rule. Thank you.	These comments are addressed in the record of this proceeding. For further information, please see the responses to comments 4e, 4i , 4k on local laws and ordinances, comments 4t and 30b on visual impacts, and the record in this proceeding, including but not limited to: the Office's findings with respect to local laws and ordinances and any related Site Specific Conditions (SSCs) in subparts 4 and 6 of the Draft Permit, respectively (DMM Record 32); Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-77 (SSCs) (DMM Record 52); the Ruling on Issues and Party Status, and Order of Disposition [Issues Ruling] issued June 13, 2022 (DMM Record 56); and the Decision of the Executive Director. Please further see the response in ORES comments 4t and 18e regarding visual impacts. The Permittee has demonstrated that compliance with specific local provisions is unreasonably burdensome pursuant to 19 NYCRR § 900-2.25(c). For a thorough discussion on how relief from requirements of the Town of Rush Zoning Law was determined by the Office, please refer to Section V(2) of the Substantive and Significant Brief (DMM Record 52, pp. 29-55).
67			4/26/2022 Virtual Public Statement Hearing		Hi. Good evening. Thank you for letting me speak. My name is Tom McHale, T-O-M, M-C, capital H, A-L-E. I also am a union organizer working with Laborers Local 435 out of Rochester. I'm not going to repeat he points that my colleague made. I just want to stress the fact that Invenergy, the developer, has been a great partner to local labor. Every project that they've done across New York State has employed local labor, paying good wages and benefits to the community. They've gone out of their way to make sure that they've partnered in the communities with putting people to work on the projects. It's important to them. Local people and local jobs has been important to them and they've made a commitment to use local people on their projects and to support the trades, and to support good wages and benefits. Thank you.	Comment noted.

68			4/26/2022 Virtual Public Statement Hearing	Hi. This is Joann Scanlon. I live in the Town of Rush and I wanted to just speak in -- in favor of Horseshoe Solar. I think that, you know, we really need to focus on the Climate Leadership Protection Act and make sure that we are doing all we can for the climate. Every town, everyone across the state has got to do their part, otherwise we are not going to meet those goals. And I understand people don't want anything in their backyards that might -- they might not like to see. But -- and what -- and as far as screening, there is going to be screening, so that's not -- that's not necessarily correct. Archaeological surveys were done. The areas have been removed by Invenergy, for those that were of concern to the Seneca and Seneca Tonawanda. They have not -- the nation's have not responded officially after the final site plan was submitted. So, you know, that's an implicit, I assume, response that they -- although they don't support it, that they're no longer opposing it. As far as the prime farmland is concerned, you know, 800 acres of mineral soil groups were avoided as part of this whole process. So only 550 acres of prime farmland are in the panel area. So much -- much of the area under the panels is going to be used for agrivoltaics. So what we're doing is -- what they're doing is they're going to be grazing sheep there. The sheep is then going to rotate through the panel areas. That's going to eliminate the need for mowing. So instead of paying for traditional fossil fuel mowing services, Horseshoe will actually pay farmers to herd their sheep. So that's both an economic and environmental benefit. And there are also other land uses in consideration, including beekeeping, which is very important. We have a huge problem with bees dying off and -- and crops. So we will have additional -- additional crops available. And then the agrivoltaics also provides opportunities for these individual farmers who are interested in getting into farming but don't have the means to buy the land that would be able to sustain a living of agriculture. To be able to lease this land and get paid to -- to start their farming business honestly. And so it's a really good opportunity for us to raise up new farmers because, you know, most of our farmers in New York State are really getting older and they don't know really what the future is going to be. The -- the crops that are being grown in the sight area primarily are corn and soy. They are not grown for consumption. For human consumption. Both those crops are primarily used to produce biodiesel. And so they are not being used locally, but they are being used to, you know, to harm the environment basically. We don't want biodiesel contributing to our climate issues. We'll also obviously have some really great economic benefits. Mostly, I would say to the towns. But also what's really important would be the economic benefit to the farmers themselves. Farming is tough. It's very hard to make a living as a farmer. And they don't have retirement plans. Their farm is their retirement plan. To sell their farm or do something with their farm. This gives them the opportunity to have a reliable income every --every year so that if they have a bad year, they don't have to go out of business. But it also gives them an opportunity then to retire if they'd like and stay where they've been farming. So I think that's really, really important. You know, we support our farmers. We want to keep our farmers here. So then we need to support them when they make the decision that this really works for them. You know, they may not continue farming if they don't get this lease agreement. It's just a reality. So we -- we talk about, you know, supporting the clean energy goals, but we really have to take our steps forward. And I think that's been -- that's been definitely discussed across the state about -- you know, the CLCPA was great, but we haven't been funding it and we certainly haven't -- not -- have not been really paying close enough attention to -- you know, to get to where we need to go. We do have also I think, as far as the screening, you know, that like I said, there is going to be screening. So I am a member of Laborers' Local 435 and I have lived and worked in Monroe County for many years as a construction laborer. I am writing to you today to show my support for the Horseshoe Solar project. Our area needs higher paying, higher skilled jobs that solar projects bring; not to mention the significant impact it would have on the community. Local families, future generations, and I depend on projects like Horseshoe Solar to provide for one another. I hope you consider allowing this project to prosper.	Comment noted.
69a-g		Not Dated	Letters in Support from residents who are members of the Laborers International Union of North America, Local No. 435 from Monroe County, Livingston County and the Finger Lakes Region		Comments noted. Comment 69a-g represents seven identical letters submitted by different individuals.
70a-f		Not Dated	Letters in Support from residents who are members of the Laborers International Union of North America, Local No. 435 from Monroe County, Livingston County and the Finger Lakes Region	I am writing to you today to express my support for the Horseshoe Solar project. I am a member of Laborers' Local 435 and live and work in Monroe County. I rely on construction work created by infrastructure development such as solar projects. Having personally worked on several construction projects throughout the area, I can say that projects like Horseshoe Solar would help strengthen our community. They have a major impact on individuals, like me, who work on those projects by supporting our families and communities, not to mention the beneficial impacts it can have on the host town. By allowing solar development in Monroe County, you will dozens of hardworking, tax paying citizens who rely on these construction jobs to make a living.	Comments noted. Comment 70a-f represents six identical letters submitted by different individuals.
71a-c		Not Dated	Letters in Support from residents who are members of the Laborers International Union of North America, Local No. 435 from Monroe County, Livingston County and the Finger Lakes Region	Solar is one of the fastest growing industries in the country, creating thousands of jobs from construction to operations and maintenance. New York has incredible opportunity to build solar that will support our transition to clean energy, all while creating good-paying jobs and economic stimulus for local communities. As a member of LiUNA, I support the Horseshoe Solar project because it presents a new economic opportunity for the Finger Lakes region. The project will create more than 300 good-paying, family-sustaining construction jobs and additional high-skilled, permanent jobs once in operation. These jobs will allow workers to support their families as well as local businesses and the economy. In addition to job creation, Horseshoe Solar will also bring more than \$30 million in economic investment that will help improve schools, roads and bridges, public safety, and healthcare in the local community. We do not want our community to miss out on the incredible economic opportunities presented by the solar industry. The Horseshoe Solar project will bring economic development and hundreds of jobs to the region, all while supporting New York's clean energy goals.	Comments noted. Comment 71 a-c represents three identical letters submitted by different individuals.

72		Not Dated	Letters in Support from residents who are members of the Laborers International Union of North America, Local No. 435 from Monroe County, Livingston County and the Finger Lakes Region		As a Livingston County resident and proud member of Laborers' Local 435, I am writing to you today regarding the proposed Horseshoe Solar project. As a construction worker I am generally supportive of infrastructure development. My career as a Laborer is a series of construction jobs over time. However, not all jobs are good jobs. For Livingston County, a 'good job is one that pays a decent wage and provides employment opportunities for residents. I am asking you to commit to Horseshoe Solar, built by local laborers like myself.	Comment noted.
73		4/27/2022	4/27/2022 In-Person Public Statement Hearing		My name is Gerald Kusse, as you've heard the judge correctly pronounce it, or came very, very close. And that's good enough for me. I am the Supervisor of the Town of Rush, New York, which is included in the area that Invenergy with our Horseshoe project want to expand to. I retired from Eastman Kodak Company in December of 1991. I then retired from a wholly owned subsidiary company of Eastman Kodak in 1997, where I had served as the Director of Human Resources for everything from Toronto, Canada, to Mexico City and Mexico, and everything from the Atlantic to the Pacific. In 1992, my wife and I purchased a large parcel of land, large to us, of land in West Rush with the intent to develop the parcel for rural residency. In the following 28 years, the Kusse children were raised on that particular parcel of land, and we always emphasized to them a minimal disturbance of the area's rich and mostly undisturbed natural resources. In 2000 -- the year 2000, I was appointed as the Code Enforcement Officer for the Town of Rush. I didn't know that I couldn't stop work. I had to keep doing something. And I went to work for the Town of Rush as the Code Enforcement Officer. And I served in that capacity for 16 years, making sure that projects proposed for development complied with town laws, land-use regulations, and New York State Building Codes. In 2016, I was elected to serve on the Rush Town Board, where I participated in the development of the first Solar Law. And in 2020 I was elected to serve as the Town Supervisor. A lot of people have said to me, why would you do such a thing? Well, part of it was because I didn't like the way things were going, and especially with the State and their dictatorial process for putting solar facilities in areas that are already committed to residential dwellings. When I first found out that in the Town of Rush there are over 60 properties that have been occupied by residential owners, and over on the Caledonia side, there was a half dozen, that just didn't seem right to me. And I've always felt that it was very important that I, as the representative of the people's election, represent what the people want. And after going around and talking to people, I found out that, wow, something is wrong with this picture. And I apologize, because I thought something was wrong with this from day one. There are various stories going around about how these projects are funded. I really don't know how they're funded. I do know that in the Town of Rush, the project encroaches upon the people who have lived there for years. Many of them have lived there for years, and I don't think that's appropriate. Not only are the lands occupied by people for years, but the history in those areas goes way back before -- before -- longer than I can remember, and you might be able to tell, I'm pretty old. At 82 years of age, maybe I should be on a beach in Daytona, but I'd rather be here, and trying to make sure that the right thing is done for the people. I leave you with one thought, and that is, at a board meeting in the Town of Rush three years ago, after hearing conflicting and frustrating statements about, oh, it's got to go here, it's got to go there, it's got to go someplace else, I asked in public the representative, why the project couldn't be put on State land down in Industry, State land owned by the State? And the response I got was, oh, gosh, we wouldn't want to do that, the State is too difficult to deal with in their permitting process. Now, you can say that I'm full of bologna, say what you want, but that's recorded. It's on the Town Meeting Notes and you can hear it. And you can hear that response. And I think that that is terrible if there	These comments are addressed in the record of this proceeding, including without limitation Staff's Brief (DMM Record 52) responding directly to the joint petition of the Town of Rush and Residents United to Save our Hometown (RUSH) for party status and an adjudicatory hearing. For further information, please reference comment 4e (comprehensive plan of the Town of Rush); 4i (consideration of Town of Rush Solar Energy Systems Law); 4k (local laws and ordinances, and related Site Specific Conditions (SSCs)); 4x (public engagement during the Executive Law § 94-c application review); 4y (consistency with Executive Law § 94-c, and significant avoidance, minimization and minimization measures resulting from iterative siting process which included community and local municipal engagement); and 4j (consistency with NYS energy planning objectives, CLCPA targets and environmental benefits of the proposed Facility). Without limitation, the record of this application includes a multi-year iterative siting process which included multiple opportunities for consultation with municipalities and community members, coupled with: (a) significant modifications to the proposed Facility (including without limitation removal of approximately 324 acres of solar arrays from Areas F-H in the Town of Rush and approximately 949 from Areas A-E acres in the Town of Caledonia) (Staff's Brief at pp. 10-17 and Appendix 1 (DMM Record 52)), and comprehensive measures proposed by the Permittee to comply with local laws and ordinances and avoid, minimize and mitigate potential significant adverse impacts of the proposed Facility to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable. Please also refer to Staff's evaluation of local laws and ordinances and the additional SSCs included in subparts 4 and 6, respectively, of the Draft Permit (DMM Record 32); and the discussion of these topics in Staff's Brief at pp. 10-17 (Permittee's proposed avoidance, minimization and mitigation measures), 17-55 (local laws and ordinances) and 55-78 (SSCs) (DMM Record 52).

74		4/27/2022	4/27/2022 In-Person Public Statement Hearing	Hello. My name is John Kane. I am Mohawk, or more accurately Kanienkehaka. I am Onkwe Onweh. That is our word for Native People. That's the loosest translation. Literally, it means, a real human being. And by "real," meaning tied to the lands that we always were associated with. And I say that because it's important that in a world where labels are stuck on Native People so often that don't accurately reflect who we are, I think it's sometimes necessary to use some of our own language. The UN Declaration of the Rights of Indigenous Peoples one of the most prevailing comments or requirements listed there is he requirement for free, prior, and informed consent. And this isn't just for things that happen on our land, but things that impact our people. Now this free, prior, and informed consent. It's not free, prior, and informed five minutes in front of a panel here. It isn't free, prior, and informed consultation. It is free, prior, and informed consent. This is not a seat at the table. This is checking a box. And I think it's important that people realize that by not allowing Native People a real seat at the table, and I mean people who live a Native life, and who live a Native culture, and who a Native history, you are depriving yourselves of insights that you may not necessarily prescribe to, but that are insights that you may not be aware of. We have a concept called Seven Generations. And this concept is about making decisions today with an awareness on how those decisions are going to impact the people that we will never see. We say Seven Generations because we might live to see five generations. And many of us have families that can come together for -- and have five generations in a room together, but rarely will you see six, and almost never will you see seven. So when we say seven generations, we're talking about making decisions that will have impact on those faces we will never see. Not return on investment in a ten-year financial statement. Not whether, what the short-term environmental impacts are going to be, or a short-term solution for a long-term problem. Look, many of us as Native People, we fully support sustainable energy. But the idea of not being considered and not being a part of the conversation when it comes to the placement of these things. The previous speaker suggested, why not State land? Why not the space between the lanes of the thruway? You've already taken all that land, and didn't pay a fair price for that, I guaranty that. But we don't have a seat at the table. We get five minutes here and there. And it allows you to check a box, as I say, because of the regulations that require these kinds of meetings. But we know we're not going to have significant impact. But we come anyway. But even when we don't come, I heard speakers suggest that our silence is approval. I heard speakers from last night suggesting, well, the Senecas and -- from Seneca Nation and Tonawanda never spoke up after we moved some of where the panels will go? Well, that doesn't mean that everybody approves it. And if we don't have a seat at the table, then how can you say that our silence is approval? This is one of the problems with --with what develops in these, again, short-term solutions that are driven by money. That are driven by profitability. Not so much driven by solving an energy crisis. There is a whole lot that a lot of people in this room could do that could impact that.	These comments are addressed in the record of this proceeding. For further information, please reference comments 1, 18a, 18b and 18c (cultural resources, including consulta ion with Indigenous Nations, evaluation of potential significant adverse visual and noise impacts, and the proposed point of interconnection (POI) substation in the Town of Rush); comment 4m (Environmental Justice); and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52). Without limitation to the record, the Permittee's multi-year iterative siting process included detailed study of potential archaeological, historic and cultural resources in consultation with OPRHP/SHPO, Indigenous Nations, local municipalities and members of the public. This iterative review resulted in the removal of approximately 158 acres of solar panels from Area G in the Town of Rush, and removal of approximately 725 acres of solar panels from Area D in the Town of Caledonia, to avoid and minimize potential significant adverse impacts to sensitive areas identified by Indigenous Nations and other parties along the Genesee River. Additionally, the Permittee voluntarily removed an additional 150 acres from the Town of Caledonia to completely avoid additional disturbance of the former Canawaugus Reservation site, where a quarry and other land uses are currently located (Area E). In compliance with Executive Law 94-c(3)(d), the Draft Permit includes additional Site Specific Conditions (SSCs) at subpart 6(e) of the Draft Permit, requiring the preparation of a Cultural Resources Avoidance, Minimization and Mitigation Plan (CRAMMP) as a mandatory pre-construction compliance filing pursuant to subpart 7(l)(g) of the Draft Permit (DMM Record 32). The CRAMMP will include: measures for the protection of cultural resources (including with respect to proposed underground collection lines); an archaeological construction monitoring plan; a historic preservation mitigation plan; a final unanticipated discovery plan to address the discovery of any interred remains; and the appointment of a qualified cultural resources monitor to oversee the entirety of the construction phase within sensitive areas. Based upon the foregoing, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and required by the Draft Permit, would avoid, minimize and mitigate potential significant adverse impacts to cultural resources the maximum extent practicable.
75		4/27/2022	4/27/2022 In-Person Public Statement Hearing	Hello. My name is Melissa Smith. I am from the Tonawanda Seneca Nation. I don't represent any form of Government from there. I just am a member of the Nation. And I want to tell you that Ivenergy and I have clashed right from the beginning. I do not think that this is a good thing for us. In 20 years, Ivenergy will have gone through these solar panels, and they will leave he place junk. The solar panels won't be good to anybody. They will leave the place in nothing. And all of our cultural artifacts will be left in shambles. Everything that they have done will be a cultural genocide for us. And I think that you guys, I just -- feel like when you think of the Seven Generations that we have lived by all of our lives, you should have to live under that, too. You should have to remember that for your children's children and your children's grandchildren, you should have to remember that. When you do things like this to our ancestors, I hope this happens to your ancestors. I hope you can do things like this to your ancestors. Because this is how we feel about ours. You gave us that little patch of Golah, thank you. I really appreciate that. You're no good. No good at all.	Comment noted. Please see the response to comment 74 above (incorporated herein by reference).

76a		4/27/2022	4/27/2022 In-Person Public Statement Hearing	Paul Winnie, (reporter unable to translate) P-A-U-L, W-I-N-N-I-E. I would like to say, first off, hat my connec ion to this area goes back to my direct great, great grandfather, Joseph Winnie, who lived in this very spot, and lived on the Canawaugus Territory. Along with most of the Senecas, have direct relationships to people that lived here in the 1700s, and then were forced to move to Buffalo Creek and Tonawanda as a result of the Big Tree Treaty of 1797. So I would also, I can speak for myself, but the elders, the women here that are not speaking, I'm assuming are of the same opinion, that when we had the "Protect the Ancestors Rally" on Indigenous Day a year and a half ago, we had 100 people here march from the Genesee River to the Canawaugus line. And in all my dealings over this past almost two years since my awareness of this project, I have yet to find one person that agrees with it. And I've been on radio stations, I've been on podcasts. I've been to a number of meetings. So the vote that's being cast by this panel of so-called judges, in our community, we live in a different way, that no person is any higher than the other. So what I'm saying is that everybody in this room is a judge. Or everybody in this room is a -- is a jury. That we make this decision in that relationship. But I know how this system -- I know how your system works. And I know that the outcome of this is not going to go in our favor. But working backwards, I would say that the genocide that my people, Indigenous People across the country, North and South America, all over the world, we live through genocide every day. It's a slow death. It's like being tortured. Every generation faces it. And it carries on to the next, because generation genocide from this country has never stopped since 1492. Not up until this very minute. And it's not going to stop tomorrow. So what I'm saying is that the protection of this burial ground and this area is very, very sacred to us, and it's spiritual. It's something that lacks in this so-called democracy of yours. Now, I can go on and on about other different things, but if any of these guys would want more time than five minutes, I would be glad to give it to them or anybody else out there. But my position is that I was taught that we picked our parents before we were born. And I'm just born into this. And part of my duty as Onkewehonweh is to help people that are here on this Mother Earth. So that's what I'm doing today. And I hope I'm representing the people in a proper way that feel the same. Now, the Tubiolo report, Justin Tubiolo report on the History of the Genesee Valley, is not being incorporated into this decision. Ivenergy is trying to fight the report that gives the archeological history of this area, so that that's not sit ing in front of these guys, so that they don't have to make a decision because it is not in their possession to read. So I would question, why isn't that? Why would Ivenergy fight that? Are they afraid of it? Are they afraid of being on the same plane, on a just playing field? So that would be a question why we don't have a Phase II report going on here. There's other vocations within their system that have less archeological findings than this rich territory. If you go on a map of known sites in New York State, you will see black dots, higher concentration than any part of New York State, right here in the Genesee Valley. So this is a highly sensitive area. And wherever they dig, they can't guaranty that they are not going to hit other burials And that doesn't mean that just because they block off 50-square feet, they're not going to hit something else there. So I would close, if you give me a minute, but I heard some comments from yesterday. And when people think that according to our prophecies, Indigenous Prophecies, we're in a change. And nobody's listening.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74 (incorporated herein by reference).
76b		4/27/2022	4/27/2022 In-Person Public Statement Hearing	Now, I brought that up to a higher ranking official in the Sierra Club a year ago, so. And when I talked about this project to them, I said where is your comment on this? Where is your environmental protection for the non-humans? Because that's what they're there for. Well, the lady -- I said, so, in reality, renewable energy isn't going to save this planet, right? And she goes, yeah, we're F'd. And hat's a direct quote from the Sierra Club. And she said, all I can do is what I can do. So you all have to take a look at yourself. And you all have to make a change on -- in fighting climate change.	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and the associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
76c		4/27/2022	4/27/2022 In-Person Public Statement Hearing	And the change that can happen can come through him because of the genocide that we go, he can set a precedent, or whoever else is with him, that this project would get changed. So that in the future, it doesn't happen to our people anymore. All we want to do is be left alone. And that's all we've been trying to do for 500 years. We're a sovereign nation. [Mr. Winnie was asked to wrap up his comment at this point] Yes, sir. And if you want to know about more, we're under the doctrine of Christian Discovery, which gives them the right to the land. So we don't even have our own homeland, where we come from, is right over here on Bear Hill. So all I can say is, I hope I can give you more information after the meeting, but my comment is that, I am against it, if you haven't figured that out.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74 (incorporated herein by reference).

77		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Hi, I'm Joanne Scanlon, S-C-A-N-L-O-N. And I live in the Town of Rush. And I just had a few things to say in support of the project. Horseshoe is, once it's fully funded, it's actually going to have the ability to provide service to over 43,000 homes annually. And that's really significant to help get us towards that CLCPA goal. I would disagree with some people who say that climate change is going to happen without, you know, whether we try anything or not. We need to get rid of fossil fuels. We need to get rid of diesel, which is killing our kids and causing -- causing harmful effects, when they stand at the bus stop and they breathe in all that diesel. So it's just, you know, we have to get rid of those things. Is solar going to be the answer to everything? Absolutely not. But we have to combine all our efforts and all our energies in different areas in order to get to where we need to be. I want this to be a beautiful Earth in Seven Generations. If we don't do anything to take care of the Earth, then we are not going to have that for our children. So I wanted to also say that because of those 43,000 homes, we're going -- it will result in a reduction of over 125 tons of carbon. So that's significant, okay, for our kids. That's very, very significant. You know, we must consider, you know, the landscape there already. Because it's already mostly farmed, we don't have to have any concerns, really, about, you know, permanent forests or wetlands, et cetera. This is something that is already being tilled. It's being tilled by large equipment that is digging up things as well. So the idea is, that ongoing archeological tests will be happening throughout the project. It is a requirement by ORES that if they find something, they immediately stop, and have to -- have to look into it from an archeological standpoint. And as far as prime farmland, the land in the project site is being used currently to produce ethanol. Another greenhouse gas. So come on, we don't want to do that. Yes, yes, we can plant edible crops or consumables, but we're not right now. And I would suggest to you, who live in the area, to think about growing your own crops. Two percent of all the land in the country are lawns. How big are your lawns? How much can you grow on your lawn to help and do it, you know, do it conscientiously. Do it organically. Don't use pesticides. Don't mow those lawns and throw all that, you know, all those carbons into the air. We have to all think about what we can do individually and collectively to help, you know, fight the climate change. So economically, I am not going to go through all of that. But you know, everyone knows this is going to be an economic boom to our towns. But not just to our towns, to our farmers. I mean, we have farmers out there who have been on their lands for generations, okay. Farming is hard. They have no 401K. They have no pension. They have no stability in how they support themselves. Farmers, small family farms, are disappearing right and left. This gives them the opportunity to continue to live on their farms, which they've had for generations as well, and to have a consistent, reliable income for the duration of the lease. And they can continue to farm. Shade loving plants will be perfect under the solar panels. Sheep grazing would be great. You would start having land 75 -- over 75 percent of our lamb and wool come from Australia and New Zealand. We don't like frozen meat. How about getting it sourced organically locally? Okay. We all like to say we support our local farmers and want to buy locally, here we go. What happens with the sheep, is they actually mow the land. So then you don't have to have tractors that are, again, spewing fossil fuels. And the company, Invenergy, which is the correct pronouncement, I believe, they will be paying farmers to graze that land. So now, even if the farmer who owns the land doesn't want to continue, Invenergy can pay someone that is interested in getting into the business of farming that can't afford it because of the cost of the land. Imagine being someone who wants to be a farmer, getting paid to farm. That is a Hello my name is John Morelli. I live in Rush. Morelli is M-O-R-E-L-L-I. I started with the idea of saying a few words, but the things I've heard make me want to say more. One, regarding Helios. Helios has continuously changed their plan, changed their strategy. We have a project, Forefront Solar, came up, it was approved, and it's in the process. Helios is not. Helios is on the side of a hill, and it has problems with protecting visual access and so on and so forth. So they've changed the process many times. The problem, the reason that Helios is not permitted, is because of their inconsistencies, their problems, their lack of adherence to the law, and not because the Town has jerked them around. Not at all. I have solar on my house. I have geothermal in my house. I don't pay energy at all. I have two geothermal systems and a solar. We are in favor of solar. And we like it. Okay. That's not what I got up to say. So our second speaker mentioned not being part of the conversation, and that has prompted just another thing on my mind.	Comment noted.
78a		4/27/2022	4/27/2022 In-Person Public Statement Hearing			Comment noted.
78b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Before coming to Rochester to start-up the Environmental Management Program at Rochester Institute of Technology, I worked in Albany for four or five years. I worked for the Department of Environmental Conservation. There I was a Senior Project Manager for hazardous waste site remediation. This was a big thing back then. Lots of hazardous waste sites. Many of those hazardous waste sites were in municipalities. Many of those municipalities came upfront and said, hey, we don't want to have a hazardous waste site here. We want to do something about it. Can you help us. Well, as a Senior Project Manager, I tried to work with these folks. I worked for the Department of Environmental Conservation. But it was hard with the system that was in place, to not treat these volunteer people who wanted to correct the problem, as criminals. Because that's the way the State looked at them, and that's the way we treated them. I had to fight with our attorneys. I had to fight the Department of Environmental Conservation to be able to treat them respectfully, because they were voluntarily on our side. What's that have to do with this? Well, in 2016, New York State came up, and NYSEDA came up, with a draft model solar energy law that they said, hey, this is, you know, something that we should do. Well, in 2018, the Town of Rush developed a Solar Law based on what the State provided, based on what NYSERTA came out, and we have followed that model ever since. We've made some changes, we've made some improvements, but we have been trying to do our part as a community to support the State's energy goal of 6,000 megawatts per year -- gigawatts, I don't even know. But how are we treated? We're treated like criminals. We are treated like criminals. We are told that our laws are invalid, that ORES is going to come and just blow us off the map, and do whatever the hell the company wants to do with regard to solar energy.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74.

78c		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Okay. Now, this is what I got up to speak about. Regarding Horseshoe Solar's challenges to Rush's Town Law and Horseshoe Solar's claims regarding unreasonable burdens. The question is, why is Horseshoe Solar requesting from the State, from ORES, exemption from laws that it is not planning on violating? It's not planning on violating. It wants exemptions anyway. It's asked for exemptions across the board. In the Town of Rush, we have a limitation, 20 to 50 acres on -- that's the range of size that's allowed for large-scale solar. Horseshoe Solar is proposing two sites. Even combined, they don't exceed 50 acres. It is like 44 acres. So they're not violating that law, yet they've asked for the -- for ORES to exempt them from that law. The Town has a law on a 150-acre town-wide maximum of large-scale solar. We just talked about Helios, 25 acres. There is another one, Forefront, that's been approved. Helios is still in process. Similar size. Those two projects, plus everything that Horseshoe Solar has on the board, doesn't equal 150 acres. So why are they asking for an exemption from that law? Our law says that you can't cover more than 50 percent of a lot with solar. Horseshoe Solar does not come close to exceeding this restriction. Why are they asking for his exemption? Horseshoe Solar requests that the siting board not apply the locational restrictions required that, all arrays be installed in excess of a thousand feet from higher density residential areas. This is in spite of the fact that such districts in Rush occupy less than 5 percent of the Town. Very small portion. But Horseshoe Solar has asked to be exempt from all of it. Horseshoe Solar requested the siting board not apply height restrictions, and they say, hey, we could get more energy on 17-foot high panels than we can on 12. Yeah, well, what about 50-foot high? Who's going to draw the line? This is a residential and agricultural land that we're trying to protect. Horseshoe Solar requests that the siting board not apply the 200-foot setback listed in the Town of Rush Zoning Law. This is agriculturally and residentially zoned land. There is an element of trust there in the zoning code. When you buy a home in a residential area, you do not expect or anticipate that in a year's time or two years or ten years it's going to become an industrial site. Finally, the answer. The answer to these questions, why are they doing it? Because Horseshoe Solar doesn't own only 50 acres in the Town of Rush. They don't lease only 50 acres in the Town of Rush. They lease somewhere between 600 and 800 acres. They originally had proposed a whole lot more, but when the Town objected, they cut it down to 50 acres. Well now they're asking ORES to exempt them from all the laws in the Town, all the solar laws, and as soon as they do that, as soon as ORES does that, they will turn around, and they will put that 800 acres back on the board, and they will build it in the Town of Rush. It's deception. It cannot be allowed. Thank you for your time. I'm sorry for running over.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74.
79a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Nancy Goetz, G-O-E-T-Z. The siting of this project is akin to building over the top of Arlington Cemetery. Please consider preventing the desecration of Native ancestral grounds. Please respect the human remains that have been found and re-interred here.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74.
79b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Not only is much of this project on ancestral grounds, but it is also prime agricultural land. We need to look at climate change from the standpoint of replacing fossil fuels, while maintaining food production, in a sustainable manner. Please respect the land. Please respect the ancestors. Thank you.	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 2a and 74.

80		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Hi, my name is Michael Oberg, O-B-E-R-G, with sloppy handwriting. I apologize. I am a history professor. I teach at SUNY Geneseo. I'm also the founder of the Geneseo Center for Local and Municipal History. I've been teaching and writing about the history of the Haudenosaunee people for 28 years, and have some strong feelings about this project. Livingston County, Monroe County, the entire Genesee Valley has a very, very deep history going back many, many centuries before the first white settlers, speculators, soldiers, cast covetous eyes on the lands of this region. If Horseshoe Solar has its way and this development goes forward, I worry that some of that important local history will be erased if this corporation wants to build this vast solar array on this town. Horseshoe Solar early in 2020 commissioned a study of the proposed project by Panamerican Consultants, a research firm with an office in Buffalo. The study's conclusions diminished Seneca attachment to the region. And historical reality that the site of Canawaugus, just up the road from where we are today, has a history going back farther than that of London and England. Two thousand years of occupation and use in this site. The report relies on published sources, and borrows too uncritically from the ethnocentric and racist language of 19th and early 20th century archeology. The report's authors spoke to no Seneca People that I know of. Nor did they do any research in the archive. And according to their report, scattered across the site were quote, unquote, camps and multi-use sites. And Seneca People and their ancestors, they weren't confined to camps and the village sites and burial grounds. If you look at the archival record, which is what I do for a living, the Geneseo Senecas, the Senecas who occupied sites along the Genesee Valley, including Canawaugus, were major players in the histories of three American empires; the French, the English, and the United States. The Genesee Valley flowed through the heart of Seneca culture for centuries. They made use of this valley to hunt, fish, and grow crops. This was a world of towns and villages of diplomacy and warfare peace and violence and trade-in commerce. Canawaugus was the birth place of two of the most important figures in Seneca history. Cornplanter and his half brother, the prophet, Handsome Lake, but even more it was home to many Senecas. Thousands and thousands and thousands of Senecas over many centuries. Men and women who had a major impact on Haudenosaunee history into the 1800s. The Seneca sold these lands, sold in air quotes, in an 1826 Treaty that even Horseshoe Solar's historians concede was, quote, arguably fraudulent. Had they bothered to look at the primary sources, they would have seen that there is no doubt about the despicable practices engaged in by the US Treaty Commissioner. And his malfeasance is one reason why the Senate never ratified the treaty as required under American law. President John Quincy Adams never resubmitted it to the Senate after an investigation was very, very easy to smell the very, very large rats involved in that treaty. Federal law requires all land transactions be ratified by a two-third vote of the United States Senate. That's the Constitution. That has been the case since its beginning. Because the 1826 Agreement never received that ratification, the Senecas justifiably view this site of Canawaugus as unseated reservation land protected by earlier treaties. Its Native ground to which they still assert a powerful historical claim. And like Standing Rock or Barabrade, or sites across the country that some of the other speakers have mentioned, it's a site of enormous significance to Indigenous Peoples offered up to corporate energy involvement. This should matter to us all. New York State could not have emerged as the Empire State without a systemic, and at times, illegal program of Haudenosaunee dispossession. That's just a simple fact. It's black and white in history. Canawaugus is one of the	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 74.
81a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		My name is Carol Stevenson, with a V, 7740 East River Road, Rush, and I've lived there for 35 years. My husband and I raised our three children there, and I remember the first time he brought me to the five acres. He said, oh, I found a great spot. It had woods, it had a hill, it had a field, it had a creek, and we fell in love with it. And it's been such a wonderful place. I am a retired teacher as well. So thank you for allowing my input on an industrial solar project that has long-lasting impacts on my life, my home, my property, and my Town of Rush. If you open my front door, stand on my deck, sit by my pond, or walk out the barn, you see Golah Road. I'm the first driveway across from Golah. Twenty-five years ago my daughter and I were sitting on the stoop, and we saw smoke and flames licking the sky, and we were the first to call 9-1-1 to report the fire at Golah. With regards to Golah, I feel the constructing of the second substation, which would be ten times the size of the current substation, along with the operation and maintenance building, should not be on Golah in Rush. Horseshoe originally planned for it to be in Caledonia, and they should plan on keeping it in Caledonia. The only ones who would benefit from this monstrous substation and maintenance building would be Horseshoe and the three businessmen, Farmer Moore, Farmer Howlett, and Farmer Stokoe. And they don't even live in Rush. Besides, this would be an industrial eyesore and inappropriate for our rural setting. I'll also just mention that my --many people walk their dogs down there. I do as well. And my husband and I have fished in the river here. We've launched the kayak. He's had his fishing boat and pontoon boat we've enjoyed, as well, down there.	These comments are addressed in the record of this proceeding. For further information, please refer to comments 4a, 4e, 4i, 4k regarding local laws and ordinances of the Town of Rush; comments 4n, 4t, 18a, 18b and 30b regard visual impact (including the point of interconnection (POI) substation); comments 73 and 78b regarding significant project modifications to address local concerns; and Staff's Brief at pp. 10-17 and 46-50 (DMM Record 52). Without limitation to the record, comment 30b notes that the Permittee conducted a comprehensive investigation of visual impacts and incorporated the results of these assessments and studies into Exhibit 24: Visual Impacts (DMM Record 6) and accompanying appendices (DMM Record 7). This analysis included, but was not limited to, outreach to 131 contacts including state agencies, municipal planning representatives, town and village historians, local and regional chambers of commerce, and local environmental groups resulting in the identification of 282 visually sensitive resources in the 5-mile Visual Study Area. Comments 73 and 78b further note that, based upon a multi-year iterative siting process which included multiple opportunities for consultation with local municipalities and community members, the Permittee significantly modified its Facility design and considered additional measures to avoid, minimize and mitigate potential impacts to visual, cultural, agricultural and other resources in the community to the maximum extent practicable (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8) (see also DMM Record 52, Staff's Brief at pp. 10-17 and 67-77). The Permittee's modifications include, but are not limited to, removal of approximately 324 acres of solar arrays from Areas F-H in the Town of Rush and approximately 949 from Areas A-E acres in the Town of Caledonia) (Staff's Brief at pp. 10-17 and Appendix 1 (DMM Record 52)). Additionally, the record includes comprehensive measures proposed by the Permittee and required by the Office in the Draft Permit to comply with local laws and ordinances, and avoid, minimize and mitigate potential significant adverse impacts of the proposed Facility to agricultural resources, environmental resources (including wetlands, streams, and wildlife), cultural resources, visual and other resources to the maximum extent practicable (see e.g. DMM Record 32, Draft Permit at subparts 4 and 6; DMM Record 52, Staff's Brief at pp. 10-17 (Permittee's avoidance, minimization and mitigation measures), 29-55 (local laws and ordinances of the Town of Rush), and 55-78 (Site Specific Conditions)). Without limitation to the comments cited above, in compliance with Executive Law § 94-c(3)(d), the Office imposed a Site Specific Condition (SSCs) requiring the submission of, among other things, a final Visual Impacts Minimization and Mitigation Plan (VIMMP) with updated Screen Planting Plans, as described in SSC 6(b) of the Draft Permit (DMM Record 32), The Office will review these submissions at the pre-construction compliance filing review stage to ensure that visual impacts are adequately addressed and that offsite views to the Facility are mitigated to the maximum extent practicable. See also Staff's Brief at pp. 55-56 (DMM Record 52).
81b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		My second concern is placing industrial-sized solar arrays on fertile agricultural land which borders residential land. Talk about shooting yourself in the foot. Horseshoe should not be sited on prime crop land. Think of the food production issue, using good land for solar panels, and think what's involved in farming poor land. Think of the lack of open space and its effect on nature. Think of how the Town of Rush has proactively planned and codified the wishes of the residents for over 50 years. The Conservation Plan, the Farmland Plan, the Agricultural Plan, the Energy Plan.	These comments are addressed in the record of this proceeding. For further information, please refer to comment 2a regarding the protection of agricultural resources; comment 7a regarding the co-existence of agricultural and solar renewable energy; and Staff's Brief at pp. 10-17 and 67-69 (DMM Record 52).

81c		4/27/2022	4/27/2022 In-Person Public Statement Hearing		And there is a recent document, the Preservation of Environmentally Sensitive Areas, Where a Site by Industry and the Genesee River is Threatened by Horseshoe Solar. I walk this area by way of Lehigh Valley Trail, and it Ts into the green way.	This comment is addressed in the record of this proceeding. For further information, please see comment 4f regarding wetlands, waterbodies and streams and Staff's Brief at pp. 10-17 and 71-77 (DMM Record 52). Without limitation, to avoid, minimize and mitigate potential significant impacts to areas along the Genesee River to the maximum extent practicable, the Permittee voluntarily modified its Facility to remove solar arrays from approximately 725 acres along the Genesee River in "Area D" of the Town of Caledonia and 158 acres from "Area G" in the Town of Rush. In compliance with Executive Law § 94-c(3)(d), the Office fur her included Site Specific Conditions at subpart 6(h) of the Draft Permit requiring the use of Horizontal Directional Drilling (HDD) to install collection lines and associated cabling underneath streams and rivers to the extent practicable, and a Site-Specific Crossing Plan for the Genesee River and Honeoye Creek to avoid, minimize and mitigate potential significant adverse impacts to the maximum extent practicable during the construction phase (see e.g. DMM Record 3, Exhibit 9 Alternatives; DMM Record 8, Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8) (see also DMM Record 32, Draft Permit subpart 6(h) pp. 67-69 and DMM Record 52, Staff's Brief at pp. 10-17 and 67-77).
81d		4/27/2022	4/27/2022 In-Person Public Statement Hearing		You start in Rush, you go through Avon, and you end up in Caledonia. And I walk it numerous times a week, six and a half miles, and it is gorgeous, replenishing, and full of wildlife. If Horseshoe installed its panels, it would be ugly, not gorgeous. Depleting, not replenishing. And dead, not full of wildlife. Dead panels, dead fences, dead. Think of the 65 homeowners, I being one, that would have property bordering industrial-sized solar arrays. So I ask, would you help us keep the long history of success in Rush, its rural, residential, agricultural, and not allow industrial and commercial ventures to be foisted on the 3,000 people of Rush. Horseshoe Solar needs to leave Rush, and take the panels and the substation times ten, and the O&M building, and they need to install it on an industrial and commercial land outside of Rush.	This comment is addressed in the record of this proceeding. For further information, please refer to the discussion in comments 81a and 2c; and Staff's Brief at pp. 10-17 and 69-71 (DMM Record 52).
82		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Good evening. My name is Janet Glocker, G-L-O-C-K-E-R. Welcome to Western New York, Judge's Caruso and Sayre. Thank you for the opportunity to speak. I want to talk about cultural genocide. I want to talk about 500 generations of human habitation along the Genesee River. ORES asked individuals in groups in New York State to draft regulations in 2020. Christine Abrams of the Tonawanda Seneca Nation did so on December 7th, 2020. I will read a few of the ten items she submitted. Her submission is found on Pages 476 to 478 of approximately 900 pages that were submitted to ORES. Her first request, to be recognized as a person, is stunning. Somehow when ORES was promulgating regulations, they did not include the Indigenous People who formed our country. ORES' Draft Regulation didn't think to include those, here for thousands of years before us. Her second request, had it been included, would have obviated the need for me to be here to speak, because it was seeking relief from the bulldozers, pile drivers, trenching machines, cement trucks. Since the Genesee River flows through the disputed Canawaugus Territory, her requests about rivers and waters are important. Let me read you her request, Section 901.2. The definition of person should include Federal, State recognized Indian Nations. Her second request, Section 901.3. Where a proposed project lies within the original Aboriginal Territory of a Federal State recognized Indian Nation, the pre-application should require pre-application meetings wi h that Indian Nation to determine whether the proposed site may affect a tribal historical site or the cultural resources of that Indian Nation. The Seneca Tribal Historical Preservation Office, THPO, T-H-P-O, was established in 2000, after the Nation received a recognition letter from the Na ional Parks Service. The THPO is charged with facilitating the Nation's involvement within Section 106 of the National Historical Preservation Act of 1966, and the Native American Graves Protection and Registration Act. These Acts mandate that any ground disturbing, Federally-funded project, must first consider the potential impacts to historic properties -- I live in one, I'm on the list -- cultural resources -- you've heard from our Native American friends -- and/or funerary sites. Additionally, the THPO is consulted for all such Off-Reservation Aboriginal Territorial projects. The THPO responsibilities include government-to-government consultations, project review and assessment for historic properties, project-specific mitigation efforts, on-site monitoring. As you can see, the THPO office is really the analog of New York States SHPO office. So what has Dr. Joe Stahlman, the Seneca Nation THPO, written about the Horseshoe Solar Project? Dr. Stahlman wrote to Andrew Davis of the Department of Public Service. The Seneca Nation THPO offers the following comments: There are 46 known archeological sites within 500 feet of the checkerboard project. There are numerous known, little known, and/or forgotten burial locations in the demarcated area. Seneca Nation suggested moving forward with a Phase II, with a focus on ground-penetrating radar and other nonintrusive methods and limited ground disturbance. Seneca Nation does not support any Phase II for testing for areas for panel arrays, perimeter fencing, utility poles, if their associated posts are driven into the ground and grubbing or grading is involved. The SHPO has spoken. It is analogous to -- I'm sorry, the THPO has spoken. It is analogous to SHPO. These documents and others that I referenced last night, are to make you aware of the repeated concerns for ground disturbances in this incredibly rich archeologically distinctive area. These documents put ORES on notice that officials at the DEC, the PSC, and SHPO have been notified by the Nations in the Tubiolo Report that irreparable harm will be done if Horseshoe defiles these leased lands in Rush.	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 1,59 and 74 ; and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).

83a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Hi. I'm not as polished as the last speaker with talking to you, but I do have some things to communicate. Judy Falzoi, I live in Avon. F-A-L-Z-O-I. Before I actually read what I have, I do want to tell you three things. I've been really involved in renewable energy things for a long time. Being retired, I've had time to do it. With COVID here, I've had nobody else to look at except my computer, and I could really learn a lot. First of all, I want you to know that not all land that goes for solar is actually helping that small farmer. And industrial investment agency called Series bought some land in Avon, maybe around 2014/15, I am not going to get the dates right. And they farmed. They farm. But also, they invest in renewable energy. So they farm until renewable energy. Series was the one that bought an awful lot of the land in Caledonia. That land was owned by, I believe it was the Logsworth family, for years and years. They leased the land to smaller farmers, and that land grew. They could just throw a seed down on it, and it would grow. So Caledonia's part of Horseshoe Farm or Horseshoe Solar Farm is not going to benefit the small farm. Maybe some in other places, but not that one. And that was around 2015 that Series bought the land and caused me to look at it, because the acreage, the price they paid for acreage, it was way more than any other acres were getting in Avon. It must have been gold under there. In New York -- and then New York State had already had an energy law, and the energy law in place right there said, no solar development on prime quality soil. And I thought, well, that's good. The farms will grow, the soil will grow, the cows will graze, and we'll still have rural vistas. That didn't work out. The only reason why ORES is here today is because it became so difficult to try and build on valuable farmland. New York State Department of Agricultural was warning about that, too. As I understand it, ORES has only one -- one reason for how it operates and how it will permit this, and that is by megawatts produced. If it produces the megawatts that it says it is going to, nothing else matters.	These comments are addressed in the record of this proceeding. For further information, please refer to comment 2a regarding the protection of agricultural resources; comment 7a regarding the co-existence of agricultural and solar renewable energy; and Staff's Brief at pp. 10-17 and 67-69 (DMM Record 52). Without limitation to the record, the Permittee voluntarily modified its Facility to remove solar arrays from approximately 725 acres of prime farmland along the Genesee River in "Area D" of the Town of Caledonia and 158 acres from "Area G" in the Town of Rush. In compliance with Executive Law § 94-c(3)(d), the Office further included Site Specific Conditions at subpart 6(f) of the Draft Permit requiring implementation of the Permittee's proposed agricultural co-utilization plan (DMM Record 32 at 65-66).
83b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Now my statement. Thank you for providing in-person public hearings. The Pennysaver announcements said my statements should not be burdensome, and must be substantive and significant. And I'm limited to two and three minutes. That's what the Pennysaver said. I can provide substantive and significant data to support my recommendation to require the Applicant to provide verifiable material specification data specific to per-and Polyfluoroalkyl chemicals, we know them as PFAS, that are used to manufacture some solar panels as well as in chemicals used for the external anti-reflective anti-soil coating. I can't give you that in two or three minutes. You can contact me. I've been contacting State agencies. They've not called back. Some other agencies, Federal agencies, have. I can provide it. Since learning about Invenergy's intent to build a massive 600,000-solar panel, 180-megawatt solar facility, I've been alerting State and local agencies to the risk of Per-Polyfluoroalkyl contamination due to the enormous number of solar panels expected in New York State. There is much being reported in the media about PFAS' water and health. It is an issue that should not be ignored. The precautionary principle should apply to ORES' final deliberation before permitting Horseshoe to be built. I do not think the ORES process requires the Applicant to submit materials, specification information about the solar panel, its back sheet, or its anti-reflective anti-soil coating. I suggest you follow the precautionary principle to prevent possible harm to the environment or people, and require this information now. Require this Applicant to submit verifiable material specification information from the manufacturer's of solar panels, back sheets, and coatings, to prove no PFAS contamination is possible from any of the materials permitted in the energy system. This should be required when components are replaced, too. An alternative would be to have the Applicant sign a legal paper attesting to his acceptance of all responsibility for restoring anything harmed due to PFAS. Require New York State DEC testing of the soil and groundwater to identify PFAS before harm occurs. I have no difficulty finding information about panels and back sheet manufacturers worldwide. I use a Chinese database, so I don't think this will be burdensome or difficult for the Applicant. I can find it. PVEL is a renewable energy industry testing and research company that ranks panels for energy production and durability. It also says, panel quality has declined along with cost. There is research that shows the external panel erodes and degradation from inside out causes panels to break. New York State DEC, in partnership with the Department of Health, have been working since 2016 to identify, remove, and restore sites contaminated with PFOS and PFAS chemicals. Why take a chance for further contamination just because the Applicant has not provided information? Federal EPA is investigating and classifying thousands of these forever PFAS chemicals, according to use and harm to human health. It is ongoing today, and will be complete in a couple years. The fact that solar panel imports are on the EPAs Significant New-Use Regulation List, says there is suspected harm to the environment from solar panels manufactured outside the regulatory process of the United States. <u>The New York State Attorney General wrote comment in support of EPA's actions</u> IMs Falzoi was asked to wrap up	The Office's primary concern is the health and safety of all New Yorkers. The Draft Permit (DMM Record 32) includes Uniform Standards and Conditions (USCs) (subpart 5), (Site Specific Conditions (SSCs) (subpart 6), and required compliance filings (subpart 7) to avoid, minimize or mitigate potential significant adverse environmental impacts to the maximum extent practicable. See e.g. EL § 94-c(3)(d) and 19 NYCRR subparts 6 and 10. Without limitation, Draft Permit subpart 5(I)(a) and 19 NYCRR § 900-2.6(f)(5) require that the Permittee submit "[a]NY manufacturer provided informa ion regarding the design, safety and testing information for the turbines, solar panel, inverters, substations, transformers, and battery storage equipment to be installed during construction, or as related to any equipment installed during facility operation." Further, as per SSC 6(a) of the Draft Permit (DMM Record 32), the Permittee is required to submit Final Plans, Profiles and Detail Drawings which shall reflect any modifications to the Facility design, and Section 7(II)(a) of the Draft Permit requires the Permittee to provide any updated information regarding the design, safety and testing for Facility components, including solar panels, pursuant to 19 NYCRR § 900-10.3. The Office notes that at this time, the Permittee has not yet selected a panel model to be procured (DMM Record 3, Exhibit 11: Preliminary Design Drawings at 11-1). Office staff will review all selected module and coating technologies for compliance with all applicable state and federal laws (including but not limited to laws regulating PFAS).
84a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		My name is Carl Ast, A-S-T, Carl with a C. I am a life-long resident of New York. And also a resident of Rush. I have lived there for 36 years. I'm also a professional engineer, licensed in New York. And my work is in infrastructure, all the way from traffic, highways, to utilities, electric, gas, water. Thank you for this opportunity to speak, and here are some thoughts for consideration. The American Planning Association put out guidelines for solar siting, and their recommendation is that solar should be sited on grazing land, not on tillable farmland. And, as you all know, before Mount Morris Dam was built, much of this land was flooded in history, creating some prime bottom-land farmland. So this tillable farmland that we're talking about for building an industrial solar facility, a lot of it is prime farmland. So the Genesee Valley, and this is something I can't get my head around, is a beautiful resource in the State of New York, and why anybody would propose putting solar panels to take away that beauty of the Genesee Valley -- Genesee River Valley, is beyond comprehension.	These comments are addressed in the record of this proceeding. For further information, please refer to comment 2a regarding the protection of agricultural resources; comment 7a regarding the co-existence of agricultural and solar renewable energy; and Staff's Brief at pp. 10-17 and 67-69 (DMM Record 52). Without limitation to the record, the Permittee voluntarily modified its Facility to remove solar arrays from approximately 725 acres of prime farmland along the Genesee River in "Area D" of the Town of Caledonia and 158 acres from "Area G" in the Town of Rush. In compliance with Executive Law § 94-c(3)(d), the Office further included Site Specific Conditions at subpart 6(f) of the Draft Permit requiring implementation of the Permittee's proposed agricultural co-utilization plan (DMM Record 32 at 65-66).

84b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Now, the panels may be theoretically recyclable, but who's doing it now, and how much does it cost? And how much will it cost in 25, 30 years? And what happens in 25 to 30 years when all these facilities that they're building now, are being removed? All of a sudden, where does the energy vacuum go? Who's bringing that energy behind all this? Are we going to rebuild? How much will it cost? This is a financial -- that's why I don't think this is sustainable. It's renewable, it's not sustainable. And why solar at this scale in New York, where sunny days are about 20 percent of the time, how much energy would we produce on a day like today? Then we lose 20 percent capacity over the life of the solar facilities. We already have Niagara Falls, the power authority, we have nuclear, which is on the verge of some renewing or decommissioning. And these are power sources that are renewable, but also at a constant level.	These comments are addressed in the record of this proceeding. For further information, please refer to comment 2e regarding decommissioning and site restoration; comment 2d regarding consistency with NYS energy planning objectives, CLCPA targets and environmental benefits of the proposed Facility; Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2, 4 and 6(k) (DMM Record 32); and Staff's Brief at pp. 1-2, 9-10 and 77-78 (DMM Record 52). Without limitation, Compliance Requirements at Draft Permit subpart 7(l)(b) state that the amount of decommissioning financial security be updated every fifth year throughout the life of the Facility (DMM Record 32).
84c		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Solar and wind are not constant. Batteries do not provide the gap to provide energy. I don't feel we are looking properly ahead. North Carolina and California, which does get more sunny days, they are investing in co-generation facilities, natural gas to steam, to bridge that gap. But New York is not. In fact, they want to decrease the amount of natural gas. And I go back to about 10/15 years ago when the discussion was on clean coal technology. Well, that's gone. Now, anything that's considered natural gas, diesel, any petroleum-type product, is evil. And I think that's wrong. That is part of our process, and it needs to be in the equation. So bottom line is, I don't see this as being reliable or sustainable. Ivenenergy is headquartered in Illinois, which is not -- and just has a New York storefront. And as a previous speaker noted, the largest landowner in Livingston County is from Indiana. They're not local. The majority of the panels are imported from China or outside of the United States, outside of New York. So none of this, to me, is a major investing in New York. And part of my job looks at risk. So risk is the looking at the possibility of something happening and the consequence of something happening.	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52). For further information on the economic benefits of the proposed Facility, please refer to Exhibit 27 Socioeconomic Effects (DMM Record 6).
84d		4/27/2022	4/27/2022 In-Person Public Statement Hearing		So getting back to Mount Morris Dam. What happens if all these panels are installed, and we have a huge event of rainfall, and Mount Morris Dam fails? We now have a flooded Genesee River Valley and flooded solar panels. It is a risk. Small probability, but a major consequence. Thank you.	This comment has been addressed previously. For further information, please see the response to this commentor at comment 30h regarding potential impacts due to flooding.
85a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		Thank you. Good evening. Jason Corwin, C-O-R-W-I-N. Hopefully everyone can hear me fine through the mask. I'm used to projecting with my students every day through a mask. So I don't have a prepared comments, but I have some -- some thoughts I want to share about this issue. So I am a citizen of the Seneca Nation. I've been a proponent for renewable energy for over two decades, both myself and Paul Winnie. We're probably the first two Senecas to use solar on our own homes. I built the system that powers my house. And so I am not at all against renewable energy on principal. However, a project like this is very concerning because as you've heard over and over, this area is loaded with the grave sites of our ancestors. And I think a lot of people, a lot of Americans, would find it distasteful if a giant oil drilling operation or a mine was put next to Arlington National Cemetery, or the place where your parents or grandparents or loved ones, maybe a child that died at birth, you know, people that you loved and cared for, your ancestors. You know, that's -- that's a very strong concern.	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 1 and 74 ; and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).
85b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		We've also heard about, you know, the displacement of prime agricultural land for solar panels. I mean, there are so many places that are brown fields, that are old industrial centers with huge warehouses. You know, those are the kind of places that should be looked at for large-scale solar. Yeah, the panels, they only last 25/30 years, they lose capacity, they're being made cheaper nowadays, they're not as robust as they once were. Just like pretty much everything. I have a 1968 record player that was my parents, a KOH, with real oak wood, the thing still works. But if you buy anything like that nowadays, and it's not going to last you, probably, five years. So you know, we're in a real conundrum about what to do because we've all gotten used to the conveniences of the modern world of electricity and the ease of transportation. And so we as a species, have to figure out, how do we get to where we need to be?	These comments are addressed in the record of this proceeding. For further information, please refer to comment 2a regarding the protection of agricultural resources; comment 7a regarding the co-existence of agricultural and solar renewable energy; comment 2d regarding consistency with NYS energy planning objectives, CLCPA targets and environmental benefits of the proposed Facility; and Staff's Brief at pp. 1-2, 9-10, 10-17 and 67-69 (DMM Record 52). Without limitation to the record, the Permittee voluntarily modified its Facility to remove solar arrays from approximately 725 acres of prime farmland along the Genesee River in "Area D" of the Town of Caledonia and 158 acres from "Area G" in the Town of Rush. In compliance with Executive Law § 94-c(3)(d), the Office further included Site Specific Conditions at subpart 6(f) of the Draft Permit requiring implementation of the Permittee's proposed agricultural co-utilization plan (DMM Record 32 at 65-66).
85c		4/27/2022	4/27/2022 In-Person Public Statement Hearing		And I've been saying for years, we need to invest heavily in renewable energies, but it needs to be done in a way that's sustainable and intelligent and that has some kind of end goal. And it's great that there are big companies that want to do projects that will address some of the large-scale issues, but because for them as multi-nationals, the bottom line is the dollar. Sustainability isn't always going to be the picture. I mean, the bottom-line dollar equation got us leaded gasoline and people's intelligence and soil being poisoned for generations. You know, it got us CFCs, freon, to destroy our ozone layer and a whole bunch of other things. So we really have to think hard about what we're doing, and things might sound good on the surface.	The proposed Facility's consistency with New York State energy planning objectives, contributions to Climate Leadership and Community Protection Act (CLCPA) targets and associated environmental benefits are addressed in the record of this proceeding. For further information, please refer to comment 2d and the record, including but not limited to Application Exhibits 8 and 10 (DMM Record 8 and 10, respectively); Draft Permit subparts 2 and 4 (DMM Record 32); and Staff's Brief at pp. 1-2 and 9-10 (DMM Record 52).
85d		4/27/2022	4/27/2022 In-Person Public Statement Hearing		It's like, yeah, we all wanted to see that climate change gets addressed, that there's greener energy, but a lot of these big -- these large-scale renewable energy projects are not taking into account the ecology that's being impacted.	This comment is addressed in the record of this proceeding. For further information, please see the record including but not limited to comments 1,4n, 4t, 2a, 2c,4f, 31f ,30b; and 18c. See also Draft Permit subparts 4 - 7 (DMM Record 32), and Staff's Brief (DMM Record 52) for additional discussion of these topics.
85e		4/27/2022	4/27/2022 In-Person Public Statement Hearing		It's not taking into account the local economies. Like was pointed out, these are out-of-state companies. How many local workers, how many jobs are really going to take place when -- when a big company comes from out of town? It would be much nicer to see that local renewable energy contractors are engaged to do projects that make sense and that take advantage of already existing spaces that are degraded. Brown fields, old mines, old transportation hubs, whatever. So that's pretty much the point I wanted to make, is just think about the simple issue of respect for somebody's loved ones and ancestors, final resting places, and to really think about what are we doing intelligently to address our energy needs and issues into the future. So that we can say to our grandchildren and great-grandchildren, future generations, that we really truly did all that we could to look out for them to inherit a world that is sustainable. Thank you.	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 1 and 74; and Staff's Brief at pp. 10-17 and 58-67 (DMM Record 52).With regard to potential economic impacts and benefits of the proposed Facility, please see the discussion of relevant topics in Exhibit 27 Socioeconomic Effects (DMM Record 6).
86		4/27/2022	4/27/2022 In-Person Public Statement Hearing		My name's Jack Moore, M-O-O-R-E. I have to take my glasses off to read. I just want to give you the perspective of one family farm. I come from a fifth generation family farm that farms in the Towns of Rush and Henrietta. Solar use enables our family to take one farm out of production for solar use. Actually, it's only, I think, about 60 acres, which will enable the next generation to continue to pay the taxes on all the other farmland, at least for the duration of the lease. Which is a community benefit, with the rest of our farmland being able to stay in production. Which is a form of farmland preservation, along with it being very good for our environment. Thank you.	Comment noted.

87a		4/27/2022	4/27/2022 In-Person Public Statement Hearing		[Mr. Winnie Speaking for a second time, as allowed by the adjudicators of the hearing] Joweis, J-O-W-E-I-S, that's Seneca for Chirping Bird. My culture that that name comes from is what we're also trying to project onto you people. That the connection to the land that's in our ceremonies and our way of life is completely different than your world. Everything we see is probably through different eyes, and the relationship of having generations to fall back on. This country was conquered by the Europeans that didn't have that background to fall back on, and doesn't know it now. But what I did want to clarify, I guess, with a few extra words. It's not only the connection to the burial grounds, per se, it's the protection of the non-humans, the plants, and the animals, the things that nobody's really been talking about so far tonight. I don't think -- the comment about solar panels, having solar projects, I wouldn't call them a farm because that's just a disguise. Just like the word Horseshoe or the word bear, bear paths, or any little fancy name that they want to use describing these panels, these projects. They don't call them what they are. They want to make it sound all nice and fairy tale like. But so the part about us being connected to the land and it goes way, way, way deep. And I just can't emphasize how --how badly I feel that this area of sensitivity is going to be covered with solar panels.	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 1, 4n, 4t, 2c, 4x, 4y, 74, 76a, 76b and 76c ; and Staff's Brief at pp. 1-6 (review process and opportunities for public engagement), 10-17 (Permittee's iterative design process and proposed avoidance, minimization and mitigation measures) and 55-78 (Site Specific Conditions included in the Draft Permit to protect the environment) (DMM Record 52).
87b		4/27/2022	4/27/2022 In-Person Public Statement Hearing		And I guess reemphasizing what I said before, that the -- what I didn't talk about and other people did, was the farmland. Now this farmland is the richest in New York State, and always has been. So that's why you saw all these archeological site findings on this valley on the map, because this is where you would want to live and grow your crops. And this goes back 10,000 years. That's before the Pyramids of Giza were built. That's how much history is right here underneath your feet. And right underneath your feet right here is where the original Seneca village was. And that was in a time when there was no ORES to protect what was dug up around here. When they developed his town, they moved us over there so they could keep possession of the sulphur springs. So they can make money on the sulphur springs, until that went. So I guess you guys know all that kind of stuff. But I'm just -- it's not going to stop me from fighting after today is over with. John and myself are on this campaign, and we're in it for life. So is Jason. I will go on fighting for the removal of the Medals of Honor for the people that massacred -- the soldiers that massacred our people at Wounded Knee. That's a bill in congress right now, To Remove the Stain Act. So I will still be fighting that. Whatever I can do to fight this. I will be -- I am in a committee in the City of Rochester to change C day into Indigenous People's Day. I've done that before in the Town of Newstead. So that's what I -- that's where all of this is taking our people. That we're not going to give up fighting any of these things in New York State, or in the United States, or in South America. Because the Indigenous people have to all fight all these things all the time. And I will be there to support them. Now a.	These comments are addressed in the record of this proceeding. For further information, please refer to the prior comments 87a, 2a and 7a and Staff's Brief at pp. 1-6 (review process and opportunities for public engagement), 10-17 (Permittee's iterative design process and proposed avoidance, minimization and mitigation measures) and 55-78 (Site Specific Conditions included in the Draft Permit to protect the environment) (DMM Record 52).
88		4/27/2022	4/27/2022 In-Person Public Statement Hearing		[Mr. Kane Speaking for a second time, as allowed by the adjudicators of the hearing] I don't shy away from microphones. Again my name is John Kane. Look, I do radio advocacy for Native People in New York and in Washington, DC. And I do podcasts and videos about so many of the struggles that we have. I mention the UN Declaration of the Rights of Indigenous Peoples. Most of you don't even know what that is. Even though it is an international declaration that included in its language, calls it the minimum standard by which nation states should recognize the rights of Indigenous Peoples for dignity and survival. The minimum standard. And most of you making decisions like this don't even know it. Don't even know that it exists. I mention that it requires free, prior, and informed consent for policies, practices, activities that will impact Native People. The fact that it is not known predominantly by Americans is somewhat associated with the fact that only four nations in the -- a part of the general assembly voted against it in 2007. The United States, Canada, New Zealand, and Australia. Now since then, all four nations have suggested that they endorse the aspirations of the declaration, provided it doesn't conflict with their laws. Well, if you're not providing free, prior, and informed consent on activities that impact Native People's lives, history, culture, and future, then -- then you're violating it. I encourage everybody in this room, especially those who will make decisions on this, to read the damn thing. Find it online, the UN Declaration of the Rights of Indigenous People. See free, prior, and informed consent mentioned, I think, five or six times throughout the document. See what it rejects in its -- in its initial language of the document. One of the things that it rejects is racism. And I gotta tell you, the failure for Native People to have a seat at the table, to be recognized as persons in these conversations, is racist. And let me define racism, since so many people don't understand what racism is. Racism is the -- is when you have a power vacuum. Where one group of people has a sense of superiority over another group of people. Where they have the power to make decisions here, and these people have none. Native People have been -- have been the victims of racism longer than anyone at the hands of European colonists. The first slaves weren't black people, and I'm certainly not trying to diminish the atrocities committed against black people. The first slaves were native. George Washington said, let the Senecas and Cayugas know the terror of their chastisement, when he launched the Sullivan Campaigns to dispossess Native People of their lands. A hundred years of residential schools, paid for by the United States, and operated by the churches, many of them, several of them. A hundred years. The largest period of land loss took place during that hundred years of residential schools. That the United States hasn't even begun to reckon with. Oh, yeah, they'll cite the unmarked graves being discovered in Canada, but nobody's even begun to count the bodies that were buried at schools. I don't know how many of you went to a school that required a graveyard. I suspect none. But our ancestors did. We also experienced the largest period of identity loss. Hollywood called us Indians and red skins and warriors and savages and braves, and then you call your team names by the same thing. Your schools get to mock us. That isn't just mockery, it's erasure. And look, I can appreciate how many years some of you have made homes in what was the ancestral lands of the Senecas, but it hasn't been thousands of years. This is -- I mean, how do you ask for respect? I mean, do you beg for it? This project is wrong. Many of you know it, and you're only trying to justify it with dollars and cents, and that makes it more wrong. Again, I appreciate your attention	These comments are addressed in the record of this proceeding. For further information, please see the response to comments 1, 4n, 4t, 2c, 4x, 4y, 74, 76a, 76b and 76c ; and Staff's Brief at pp. 1-6 (review process and opportunities for public engagement), 10-17 (Permittee's iterative design process and proposed avoidance, minimization and mitigation measures) and 55-78 (Site Specific Conditions included in the Draft Permit to protect the environment) (DMM Record 52).

89		4/27/2022	4/27/2022 In-Person Public Statement Hearing		[Mr. Corwin Speaking for a second time, as allowed by the adjudicators of the hearing] Yes. Just one comment. Again, Jason Corwin, C-O-R-W-I-N. I would like to address the point that was made in the virtual meeting last night that said that both the Seneca Nation Government for the Senecas of Cattaraugus and Allegany, and the Tonawanda Council of Chiefs have not issued any further objections to the project. Now, that may very well be true, but the vast majority of Seneca citizens, if not all Seneca citizens, are adamantly opposed to this project. It is a pragmatic decision that these smaller governments that are strapped in resources and juggling all kinds of battles coming from every single which way, everything from fracking wastewater in our rivers, to the Governor trying to extort half a billion dollars to fund the new Bills' stadium, I mean, there are all kinds of issues that are being dealt with. And so unfortunately, they may make decisions to say, okay, we're going to let this one go. But I just want it for the record, that I, through the communications that I'm regularly in with the members of our community, everyone is -- I mean, people were messaging me right now, I wish I could be there tonight. What's going on? How's it going? What's going to happen with this? So I just want you to know there might be only a few of us that made it here in person, but there is many, many, and as well as many, many non-natives that understand the moral and ethical significance of what's going on here, the ecological significance, and are opposed. Thank you.	These comments are addressed in the record of this proceeding. For further information, please see the response to comment 1 ; comment 4x; comment 4y; comments 85a - 85e (prior comments of this speaker); comment 74 ; and Staff's Brief at pp. 1-6, 10-17 and 58-67 (DMM Record 52).
90			Emailed to general@ores.ny.gov on 4/30/2022 by Austin Kuntz		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Aus in Kuntz [REDACTED]	Comment noted.
91			Emailed to general@ores.ny.gov on 4/30/2022 by Thomas McHale		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advancethe project forward. Thank you. Thomas McHale [REDACTED]	Comment noted.
92			Emailed to general@ores.ny.gov on 4/30/2022 by Suzanne Stokoe		To whom it may concern, Our farming family has been stewards of our land in this community since 1812. I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you, Suzanne Stokoe, 6th Generation Farmer Suzanne Stokoe [REDACTED]	Comment noted.
93			Emailed to general@ores.ny.gov on 4/30/2022 by Marshall Smith		To whom it may concern, I support the Horseshoe Solar project because it will help to move us closer to energy independency and free us from our fossil fuel addiction, as well as the related air and water pollution associated with oil and coal based energy production. Invenergy has a workable plan to utilize currently low-producing farmland and to help to bring it back to productive levels over the lifetime of the project. I am satisfied with the due-diligence and study of the relevant data that this is a direction that the Caledonia community should proceed. Thank you for the opportunity to contribute my thoughts. Marshall Smith, PhD Professor Emeritus Rochester Institute of Technology Marshall Smith [REDACTED]	Comment noted.

94			Emailed to general@ores.ny.gov on 4/30/2022 by Dean Estes		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and heal hcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addi ion, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. dean estes	Comment noted.
95			Emailed to general@ores.ny.gov on 4/30/2022 by John Heyneman		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. John Heyneman	Comment noted.
96			Emailed to general@ores.ny.gov on 4/30/2022 by Kathleen Krenzer-Stein		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for he Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to both Monroe and Livingston countries. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create many local jobs during construc ion. Horseshoe Solar will continue to use land for agriculture and will maintain its natural environment. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Kathleen Krenzer-Stein	Comment noted.
97			Emailed to general@ores.ny.gov on 4/30/2022 by Thomas McHale		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for he Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Thomas McHale	Comment noted.

98			Emailed to general@ores.ny.gov on 4/30/2022 by Greg Stokoe		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented mount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. As Greg Stokoe, the owner of land where a portion of this solar project is to be located, I am for the approval of the project. The approximately 100 acres of my land that is marked to be included in this project is a small percentage of our overall farmland and will not affect our overall farming capacity. This is the singular project that our land is being considered for. Additionally, being a larger overall project, it will also be more efficient and will be able to benefit a wider array of people. This project is also beneficial for the future in many ways. Including reducing the overall carbon footprint and will help to provide a sustainable source of energy for many years to come. Thank you. Greg Stokoe	Comment noted.
99			Emailed to general@ores.ny.gov on 4/30/2022 by Kim Snyder		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Kim Snyder	Comment noted.
100			Emailed to general@ores.ny.gov on 4/30/2022 by Bethany Choate		To whom it may concern, I live in close vicinity to the proposed Horseshoe Solar site in Rush, NY and wish to make my ardent support known. I believe it is critical to be responsible stewards of Earth and support clean energy efforts. I have the pleasure of my own solar array atop my net-zero home, but knowing that not all people have the means or situation (or motivation...) to do the same makes large-scale installations all the more needed. I do as much as I can to protect the planet to ensure a safe and healthy environment for my son and all future generations, and I would be proud to live in a town that shares this commitment. I have been very disappointed by the vocal dissenters, false information spreaders, and town government for not leading in this regard. It's time to move this project forward. I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Bethany Choate	Comment noted.

101			Emailed to general@ores.ny.gov on 4/30/2022 by Tom Snyder		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Tom Snyder	Comment noted.
102			Emailed to general@ores.ny.gov on 4/30/2022 by Elizabeth Marshall		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Elizabeth Marshall	Comment noted.
103			Emailed to general@ores.ny.gov on 4/30/2022 by Austin Kuntz		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Austin Kuntz	Comment noted.
104			Emailed to general@ores.ny.gov on 4/30/2022 by Salvatore Victorious Jr		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and healthcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addition, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Salvatore Victorious Jr	Comment noted.

105			Emailed to general@ores.ny.gov on 4/30/2022 by Frank Dimartino		To whom it may concern, I support the Horseshoe Solar project because it will provide locally-sourced clean energy and economic investment for the Finger Lakes, all while supporting New York's clean energy goals. Horseshoe Solar will bring tremendous economic benefits to Monroe and Livingston Counties, including \$30 million in local economic investment that will fund our schools, our roads and bridges, public safety, and heal hcare. This is an unprecedented amount of investment that will allow our farmers and residents to sustainably diversify their profits. In addi ion, the project will create 300 good-paying, local jobs during construction and additional highskilled, permanent jobs once in operation. Horseshoe Solar will also add 180 MW of clean power to New York's grid, powering up to 50,000 homes each year with reliable, emission-free energy. For these reasons, I'm proud to support the development of Horseshoe Solar and urge New York State to advance the project forward. Thank you. Frank Dimartino	Comment noted.
107			Emailed to general@ores.ny.gov on 4/28/2022 by Alex Page		On behalf of the Tonawanda Seneca Nation, I transmit the attached comments, which were also provided to DPS in Case No. 18-F-6033. Also attached is the Nation's letter to ORES on the need for early consultations by ORES with Indian Nations on projects that may affect cultural resources in their ancestral territories, an issue relevant to the Horseshoe Solar matter. As expressed in these documents, the Nation opposes the Horseshoe Solar Project as currently designed because of the extreme sensitivity of the project area and the project's potential to impact Haudenosaunee burials and other cultural resources in the area. -- Alex Page Attorney at Law <u>Attachments:</u> December 10, 2019 letter of Christine G Abrams, on behalf of the Council of Chiefs, TSN Office Administrator, Tonawanda Seneca Nation to Josalyn Ferguson, New York State Office of Parks, Recreation, and Historic Preservation January 4, 2021 letter of Christine G Abrams, on behalf of the Council of Chiefs, TSN Office Administrator, Tonawanda Seneca Nation to Hon. Michelle L. Phillips, Secretary to the New York State Public Service Commission December 7, 2020 letter of Christine G Abrams, on behalf of the Council of Chiefs, TSN Office Administrator, Tonawanda Seneca Nation to Houtan Moaveni, Deputy Executive Director, New York State Office of Renewable Energy Siting April 29, 2020 letter of Christine G Abrams, on behalf of the Council of Chiefs, TSN Office Administrator, Tonawanda Seneca Nation to Andrew Davis, NYS Department of Public Service	The provided correspondence has been addressed in the record of this proceeding. The Permittee completed a comprehensive evaluation of both archaeological and historical resources which included feedback from the Seneca Nation of Indians, the Tonawanda Seneca Nation and the Tuscarora Nation (DMM Record 4, Exhibit 20: Cultural Resources and accompanying appendices and reports). Based upon this review, he Permittee eliminated solar arrays from the entire area south of State Route 5 in the Town of Caledonia (approximately 150 acres of land) (approximately 20 MW of solar arrays) to completely avoid direct impacts to the former Canawaugus Reservation property, and eliminated the placement of solar arrays on an additional 181 acres of land in the Town of Rush and 725 acres of land in the Town of Caledonia to further avoid and minimize impacts to cultural resources. See Transition Supplement Overview, Exhibit 8: Visual Impacts and Exhibit 9: Cultural Resources at pp. 7-8 (DMM Record 8) and Appendix G Cultural Resources Avoidance Areas (DMM Record 12). The Office in consultation with the New York State Office of Parks, Recreation and Historic Preserva ion (OPRHP) and State Historic Preservation Office (SHPO) reviewed this information and determined that the proposed Facility: (a) would not result in potential significant adverse impacts to any archaeological resources listed or eligible for listing on the National or State Register of Historic Places; and (b) would result in impacts to historic resources requiring the submission of a Cultural Resources Avoidance, Minimization and Mitiga ion Plan (CRAMMP) in compliance with 19 NYCRR §900-10.2(g) (see DMM Record 27, February 7, 2022 OPRHP/SHPO letter). Accordingly, the Office imposed a Site Specific Condition (SSC) at subpart 6(e) of the Draft Permit requiring submission of the CRAMMP (DMM Record 32). The CRAMMP will include: measures for the protection of cultural resources (including with respect to proposed underground collection lines); an archaeological construction monitoring plan; a historic preservation mitigation plan; a final unanticipated discovery plan; and the appointment of a qualified cultural resources monitor during the construction phase (DMM Record 32, SSCs, subpart 6(e) at pp. 64-65 and Compliance Requirements, subpart 7(l)(g) at p. 78). Based upon he foregoing, the Office concluded that the proposed Facility, with the measures proposed by the Permittee and required by the Office, would avoid, minimize and mitigate potential significant adverse impacts to cultural resources the maximum extent practicable. For a thorough discussion on how this issue has been addressed, please see Staff's Brief at pp. 10-17 and 58-67 and Appendix 1 (DMM Record 52).

109a			Emailed to general@ores.ny.gov on 4/25/2022 by Robin Rapport, Petitioner for Full Party Status		Matter of Horseshoe Solar Energy LLC ORES DMM Matter Number 21-02480 Matter subtype 94-c Permit Submitted for adjudicatory hearing in the above matter as full party status by Robin Rapport, previously ad hoc member of the PSC Siting Board in case 18-F-0633 in the matter of Application of Horseshoe Solar Energy LLC (HSS) for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction of Horseshoe Solar Farm, a 180 MW Solar Electric Generating Facility Located in the Town of Caledonia, Livingston County and the Town of Rush, Monroe County, which is referenced in Matter Master 18-02413. §900-8.4 (c) (1) This document is being submitted by: i. Robin Rapport 16 Meadowood Rush, NY 14543 robin2420J@gmail.com (405) 445-4255 ii. As the Town of Rush ad hoc member of the PSC Siting Board from July 2020 through October 2021. I have been a resident in the Town of Rush for almost 40 years, and my property is adjacent to Western, Northern and Eastern boundaries for the proposed utility solar build by the above applicant. A) As the Town of Rush ad hoc member of the Article 10 proceedings for the above case, I was given access to multiple documents regarding the applicant's filings in this matter; B) As a resident of the Town of Rush, if the HSS build pursuant this application goes forward, I will be directly impacted by any construction or operation activities as they affect my right to use and experience the quiet enjoyment of my home; C) As a homeowner whose property is adjacent to the proposed sitings for the HSS, I will be affected by the presence of reflective arrays on my property's Western Boundary of the Genesee River, and potentially along the road leading to my home. iii. I have no known direct or implied interests in any statutes relevant to this project. iv. This petition is for full party status. v. The grounds for opposition will be detailed in the adjudicable issues section (2) following, but in general are of two categories: A) Filings or statements on the part of the applicant which do not appear to conform to the letter of PSL §164 or of ORES 94c. B) Filings or statements on the part of the applicant which do not appear to conform to the spirit of PSL §164 or of ORES 94c.	Please note that these comments duplicate Mr. Rapport's petition for party status received by the Office on April 25, 2022 (DMM Record 42). For further information, please refer to Staff's written comments in Staff's Brief (DMM Record 52), responding to Mr. Rapport's petition.
109b			Emailed to general@ores.ny.gov on 4/25/2022 by Robin Rapport, Petitioner for Full Party Status		§900-8.4 (c) (2) i. Adjudicable issues 1. In the applicant's third version of its Public Involvement Program Plan for Article 10 filing {Case 18-F-0633 February 2019 (Rev. 2)}, the following statement is made: "The Study Area is all areas within 2 miles of the Facility Site. While the Article 10 regulations suggest a five-mile study area radius, a smaller radius is appropriate for solar projects as they have a relatively low profile. The panels including racking will not exceed 15 feet high." The applicant makes the point that since the highest point of the panels is less than "15 feet high", that the Article 10 regulations "suggestion" of a 5-mile study area radius be ignored. And, as one of the topological features of this area of Rush and Caledonia is extremely hilly, my two-story home is not even visible from ½ mile away — but that is NOT the criteria for the Study Area. The approximate 3800 acres which would be subsumed by the HSS development – fencing, clearing land, driving piles, laying underground cables, horizontal drilling across the Genesee River, rigging overhead cables, installing 600,000 rackmounted solar panels – is according to at least one of their documents actually 3857 acres. This is 6.0267 square miles. For a more concrete perspective, using the Empire State Building in Manhattan as a central point, the radius for a circle circumscribing this area would include the southern portion of Central Park to the North, past the East River to Hunter's Point in Queens on the East, South to Washington Square Park, and West across the Hudson River to New Jersey. While Article 10, Appendix 1000.2 (ar) states: "For large facilities or wind power facilities with components spread across a rural landscape, the study area shall generally include the area within a radius of at least five miles from all generating facility components, interconnections and related facilities and alternative location sites. For facilities in areas of significant resource concerns, the size of a study area shall be configured to address specific features or resource issues." (emphasis added) The phrase "the study area shall generally include" can be used as a throw-away admonition, and, in fact, seems to have been used that way by the applicant. Notwithstanding the fact that the regulation says nothing about the height of any components for allowing changes to the study area. Note, however, that CHAPTER X CERTIFICATION OF MAJOR ELECTRIC GENERATING FACILITIES SUBCHAPTER A REGULATIONS IMPLEMENTING ARTICLE 10 OF THE PUBLIC SERVICE LAW AS ENACTED BY CHAPTER 388, Section 12, OF THE LAWS OF 2011, states in 1001.3 Exhibit 3 Location of Facilities (a) (5) that: A study area for the proposed facility generally related to the nature of the technology and the setting of the proposed site. In highly urbanized areas, the study area may be limited to a one-mile radius from the property boundaries of the facility site, interconnections, and alternative location sites. For large facilities or wind power facilities with components spread across a rural landscape, the study area shall include the area within a radius of at least five miles from all facility components, interconnections and related facilities and alternative location sites. For facilities in areas of significant resource concerns, the size of a study area shall be configured to address specific features or	Please note that these comments duplicate Mr. Rapport's petition for party status received by the Office on April 25, 2022 (DMM Record 42). For further information, please refer to Staff's written comments in Staff's Brief (DMM Record 52), responding to Mr. Rapport's petition.

109c			Emailed to general@ores.ny.gov on 4/25/2022 by Robin Rapport, Petitioner for Full Party Status		The ORES 94c definitions state: "(bx) Study area means the area generally related to the nature of the technology and the setting of the proposed site. Unless otherwise provided in this Part, in highly urbanized areas, the study area is a minimum one (1)-mile radius from the property boundaries of the facility site, interconnections and related facilities, and for facilities with components spread across a rural landscape, the study area shall at a minimum include the area within a radius of at least five (5) miles from all generating facility components, interconnections and related facilities." (emphasis added) This clarification in ORES 94c, as well as the prior excerpt from Article 10, Appendix 1000.2 (ar), was contained in an email I sent as the ad hoc siting board member to the ALJ for Article 10 hearing (?), but I received no substantive response. In compliance with Article 10, 1001.20b, Panamerican Consultants furnished a survey (Two-Mile Visual APE Architectural Survey for the proposed Horseshoe Solar Project,...February 2020) which utilizes the applicant's identical phrase: "While the Article 10 regulations suggest a five-mile study area radius, a smaller radius was determined appropriate for solar projects due to their relative low profile." Was determined appropriate by whom? In a further comment I made to the ALJ I stated "in all of the HSS documentation I have seen (with the exception of edr's Visual Impact Assessment, Appendix, Part 1, [which did reference the visual area to a 5-mile radius from the HSS site]) all mentions of the study area have utilized only a TWO MILE radius. (The Raptor survey does not even venture outside the immediate location of the planned project site.) There is no indication from HSS as to why they decided to ignore the requirements in the above section (ar) when they plan to build over an extremely variegated topography — farmlands, woodlands, wetlands, animal migration paths, major rivers and streams, nesting areas and rookeries for geese and ducks, with a bounded area of 3969 acres." No explanation was offered. The Study Area is not constrained to boundaries of visual access. The Study Area includes evaluation of soils, topology and geological content. It is intended to include information about surface and subsurface water, aquatic, riparian, and woodland species, cultural and historical artifacts, buildings and scenic resources, animal nesting, rookeries and migration. Based upon this mis-reading of the PSL Article 10 and ORES 94c regulations for the requirement of the Study Area for evaluation of the applicant's proposal, I recommend a halt in the continuation of the HSS project, ORES DMM Matter Number 21-02480, until all requirements for permitting, including the expanded, and required study area, are complied with.	Please note that these comments duplicate Mr. Rapport's petition for party status received by the Office on April 25, 2022 (DMM Record 42). For further information, please refer to Staff's written comments in Staff's Brief (DMM Record 52), responding to Mr. Rapport's petition.
109d			Emailed to general@ores.ny.gov on 4/25/2022 by Robin Rapport, Petitioner for Full Party Status		II. Issues involved with the TWO-MILE VISUAL APE ARCHITECTURAL SURVEY FOR THE PROPOSED HORSESHOE SOLAR PROJECT, TOWN OF CALEDONIA, LIVINGSTON COUNTY, AND TOWN OF RUSH, MONROE COUNTY, NEW YORK. (NYSHPO# 18PR07941) This document, submitted as the §1001.20b response from HSS, has some discrepancies which are identified following, making reliance on the overall accuracy of the contents of this document problematic. My family has been resident in our current home 16 Meadowood since 1983, Susan Swanton has been resident in her home at 14 Meadowood since 2011. Our properties have been in our, respectively, continuous possession since purchase, and documentation has been available from any Real Estate office, or town Records office. And yet, in the above referenced document, submitted in February of 2020, 37 years after my purchase and 9 years after Ms Swanton's purchase, the residence records are totally screwed up. In Table 3.1, on page 3-5 SHPO USN 05516-000005 reference lists Meadowood Swanton Residence as 14 Meadowood Rd. This would appear to be correct. But it also lists 05516-000006 as Meadowood Mayoue Residence at 14 Meadowood Rd. – Mayoue was the previous owner of 14 Meadowood who sold the house 9 years prior. These Meadowood addresses which are valid US Post office mailing addresses, do not reference a "Road", as Meadowood is a Private road and is not specified by the Town of Rush. On page 4-4 (of the above document) references the Swanton Residence as 16 Meadowood, not Rd. which is the correct usage, but now the SHPO reference number has changed (USN 0516.000005), and the (incorrect) Mayoue residence is referenced as USN 0516.000006 at 14 Meadowood (no Rd) — but these are BOTH incorrect: The Rapport residence (my home) is 16 Meadowood, and the Swanton residence is 14 Meadowood. The errors are continued in Table 4.1 page 4-9 as 16 Meadowood is listed as Swanton Residence (should be Rapport residence) and 14 Meadowood is listed as Mayoue Residence (again sold 9 years prior) instead of the correct Swanton residence. The prior owner of 14 Meadowood had started a home business in the late 1960s and referenced his address as Meadowood Estates. That conceit was passed down through the early Post Office station (which no longer exists) and has been propagated through references as varied as Google maps and the NYS/National Register of Historic Places. Meadowood Estates is the location 14 Meadowood. Yet Table 5.1 on page 5-3 seems to make a distinction: The percentage of Area of Potential Effect (APE) visible from property is listed 22% for both 14 and 16 Meadowood, yet the entry for Meadowood Estates (identical to 14 Meadowood) is noted as 2.3% — a ten-fold reduction in visible APE for the same location. Additionally, the distance from the residence to the APE is listed as 0.15 miles for 16 Meadowood, and 0.14 miles for 14 Meadowood, even though both face the same Eastern edge of Caledonia along the Genesee River, and 16 Meadowood is closer to the HSS site. Yet, again on Table 5.1, 14 Meadowood, listed as 0.14 miles from the APE, while its alternate name of Meadowood Estates is listed as 0.17 miles from the APE. Errors in such easily verifiable information indicate a pervasive lack of thoroughness and accuracy for the balance of this document. Reliance for such a complex project as the Horseshoe Utility Solar array upon a massive, but, ultimately, unverified collection of data present in the above referenced APE, and other documents, casts a net of uncertainty over these submissions. III. In Chairman Rhodes' letter of deficiencies dated 31 August 2020 to Mr William F McLaughlin, an attorney for	Please note that these comments duplicate Mr. Rapport's petition for party status received by the Office on April 25, 2022 (DMM Record 42). For further information, please refer to Staff's written comments in Staff's Brief (DMM Record 52), responding to Mr. Rapport's petition.

109e			Emailed to general@ores.ny.gov on 4/25/2022 by Robin Rapport, Petitioner for Full Party Status		The open issue of Lenape Resources (DMM items #59, #60) had not been addressed. And the ongoing discussions between the subject matter experts, archaeologists, the Seneca Nation of Indians and HSS, from October 2020 through to June 2021 had still not been resolved. Yet, in his letter of 30 June 2021, Mr John B Howard, identified as Interim Chair for the Board on Electric Generation and Siting and the Environment, advises Mr William F McLaughlin that “the Article 10 Application filed by Horseshoe Solar Energy LLC in the above referenced case, complies with Public Service Law (PSL) §164.” Mr Howard continues, “In finding the application complete, I want to acknowledge the letter dated June 9, 2021, from the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP), which raises certain issues related to determinations made by OPRHP. These issues may appropriately be addressed in the next stage of the case.” Which was to be scheduled “within the next 60 days, pursuant to PSL §165.” No corrective actions or petitions regarding these matters are posted by HSS or its agents for two-and-a-half months until 14 September 2021 On this date, with no clarifications or resolutions appearing on the DMM site, John Dax, following McLaughlin to the law firm of Hodgson Russ, requests a six week extension for subsequent Siting Board actions in this case. After this 6-week delay, William McLaughlin files notice that “HSS is electing to be subject to Section 94-c of the New York State Executive Law (Section 94-c)”. In so doing, the process of the DPS decision process has effectively become an in camera proceeding. The ORES 94c process has removed any transparency to this application afforded through the Article 10 siting board.	Please note that these comments duplicate Mr. Rapport's petition for party status received by the Office on April 25, 2022 (DMM Record 42). For further information, please refer to Staff's written comments in Staff's Brief (DMM Record 52), responding to Mr. Rapport's petition.
111			Emailed to general@ores.ny.gov on 4/21/2022 by Melissa Gonzalez-Trelles, US Fish & Wildlife Service		We have received your request for information regarding occurrences of federally listed threatened and endangered species within the vicinity of the above-referenced project/property. Please see the check box below that pertains to this project regarding next steps to take in order for your project to be reviewed by the U.S. Fish and Wildlife Service's (Service) New York Field Office (NYFO). An official species list was not requested through IPaC. Next steps to take: Please log into the IPaC website at IPaC: Home (fws.gov) to obtain an official species list for the above-mentioned project. The NYFO cannot accept species lists that indicate they are “Not for Consultation.” Project submittals will not be reviewed until official species list requests are obtained and the project is resubmitted. Insufficient project information was provided to complete our review. Next steps to take: Please go to the NYFO Project Review website at https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews and follow the instructions to complete our 7-Step process before submitting a project for our review. To ensure that all pertinent project information has been submitted for Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) review, please use the Project Review Submittal Checklist found here: https://www.fws.gov/media/project-submittal-checklist. Project submittals will not be reviewed until all pertinent project information has been submitted. *If you do not have access to online resources, please coordinate with the NYFO for assistance at 607-753-9334. **It is preferred that all project reviews be submitted via email at fw5es_nyfo@fws.gov. If you cannot submit documents electronically, please mail them to the NYFO at the address at the top of this page. As a reminder, sections 9 and 4(d) of the ESA establish protections for endangered and threatened species, respectively. For any federally listed threatened species in New York, contact this office. Additionally, section 7(a)(2) of the ESA, requires Federal agencies, in consultation with the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of designated critical habitat. For non-federal projects, those not authorized, funded, or carried out by a Federal agency, we provide technical assistance to individuals and other non-federal entities to assist with project planning to avoid the potential for “take” or when appropriate, to provide assistance with their application for an incidental take permit pursuant to section 10(a)(1)(B) of the ESA. To avoid potentially impacting listed species or causing unauthorized impacts, we encourage project sponsors to ensure all requirements of the ESA have been fulfilled prior to finalizing project plans. If you have any questions or require further assistance regarding threatened and endangered species, please contact the NYFO Endangered Species Program at 607-753-9334. Please refer to the above Project Number (if provided) or the Project Name in any future correspondence.	The Permittee's application includes evaluation of potential significant adverse impacts to federally-protected species and habitat. For additional information, please refer to the record in this proceeding, including without limitation Exhibit 22 Terrestrial Ecology and Wetlands and Appendix 22a Wildlife Site Characterization (DMM Record 4). As per Draft Permit subpart 7(l)(a), the Permittee is required to submit all federal and federally-delegated permits and approvals required for construction and operation of the facility, including the results of USFWS consultation and/or approvals, as pre-construction compliance filings (DMM Record 32).