

This appendix has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.

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Please note that these initial findings are based on an initial review of the Wildlife Site Characterization Report provided by LRI. ORES will update these findings upon receipt and review of the above referenced reports and associated shapefiles.

Recommended Habitat Assessments and/or Field Surveys

Field surveys for grassland birds are recommended in the appropriate seasonal windows within one year. In general, all fields greater than 25 acres within the facility area boundary should be surveyed for breeding birds and wintering raptors following an approved work plan. Habitat assessments for breeding grassland birds should include a description of the current landcover and the crop history for the most recent 5 years for any fields greater than 25 acres in size where components may be sited.

If LRI concurs with these recommendations and agrees to conduct the habitat assessments and field surveys described above, please develop appropriate pre-construction study work plans and submit for review by the Office and DEC prior to the commencement of field work, in compliance with §900-1.3(g)(4). If the Applicant opts not to conduct the recommended surveys and believes that suitable habitat for a given species is not present at the site, please provide a detailed description of the methodology used to determine that no suitable habitat exists in compliance with §900-1.3(g)(3).

This figure has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.



Memorandum

To: Office of Renewable Energy Siting
(ORES)

New York State Department of
Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering, &
Environmental Services, D.P.C. (EDR)

Date: June 14, 2021

Reference: Blue Hill Wind Project
Spring Raptor Migration Surveys
State-Listed Threatened or Endangered (T&E) Species Summary

EDR Project No: 21027

Facility Overview

- Liberty Renewables, Inc. (the Applicant) is proposing to construct the Blue Hill Wind Project, an up to 25-megawatt (MW) wind-powered electric generating facility and associated infrastructure within the Town of Eaton in Madison County, New York (the Facility).
- The Facility Area totals approximately 1,500 acres and consists primarily of deciduous forestland and agricultural land that is actively managed to produce row and field crops (mainly corn and alfalfa). In addition, the Facility Area includes small areas of mixed forest, shrub/scrub, grassland/herbaceous, woody wetlands, evergreen forest, and developed land (primarily rural single-family housing units and farm buildings).

Spring Raptor Migration Surveys

- Surveys were designed and conducted following the New York State Department of Environmental Conservation (NYSDEC) 2016 *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects*. Surveys began on March 4, 2021, and the final survey was completed on May 27, 2021.
- The surveys were intended to document the species, number, and flight characteristics of raptors that move through the Facility Area during the spring migration period.

ORES and NYSDEC
June 14, 2021

- All raptors were targeted for the study, along with large flocks of non-raptor birds and any special status species (i.e., endangered species, threatened species, species of special concern, and species of greatest conservation need).
- The scope of these surveys was defined in a Spring Raptor Migration Survey Work Plan that was submitted to the Office of Renewable Energy Siting (ORES) in February 2021.
- EDR biologists conducted one survey per week for a total of 12 surveys (representing more than 120 survey-hours).
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] **END CONFIDENTIAL INFORMATION**
- State-listed threatened or endangered (T&E) species observations documented during the spring raptor migration surveys are summarized below in Table 1 and are depicted in the attached Figure 1.

ORES and NYSDEC
June 14, 2021

Table 1. State-Listed T&E Species Observations (from March 4, 2021 to May 27, 2021)

BEGIN CONFIDENTIAL INFORMATION<

Species Common Name	Species Scientific Name	Conservation Status in New York	Date	Time	Number of Individuals	Flight Height (feet)	Description
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]

ORES and NYSDEC
June 14, 2021

Species Common Name	Species Scientific Name	Conservation Status in New York	Date	Time	Number of Individuals	Flight Height (feet)	Description
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1	[REDACTED]	[REDACTED]

> END CONFIDENTIAL INFORMATION

Next Steps

- Provide the full spring raptor migration survey report to ORES and NYSDEC by early July 2021.
- Complete breeding bird surveys and winter raptor surveys for the Facility, as recommended by ORES and NYSDEC.
- Obtain a determination regarding the presence of state-listed threatened or endangered species occupied habitat and the potential for Facility-related impacts (if any).
- Determine whether or not a Net Conservation Benefit Plan (NCBP) will be required for the Facility.

Attachments: Figure 1. State-Listed T&E Species Observations

Copies To: Scott Biggar, Liberty Renewables, Inc.
Molly Dunton, Liberty Renewables, Inc.
Augusta Mead, Liberty Renewables, Inc.
James Muscato, Young/Sommer LLC

This figure has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.



Memorandum

To: Office of Renewable Energy Siting
(ORES)

New York State Department of
Environmental Conservation (NYSDEC)

From: Environmental Design & Research, D.P.C. (EDR)

Date: August 9, 2021

Reference: Hoffman Falls Wind Project
Breeding Bird Surveys
State-Listed Threatened or Endangered (T&E) Species Summary

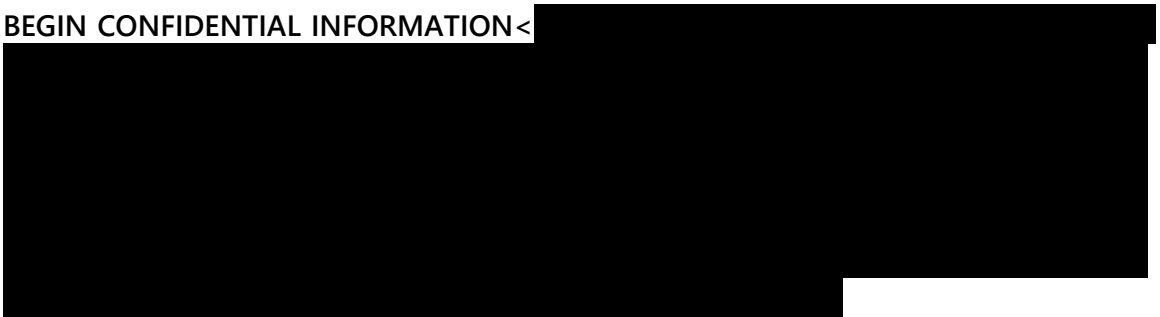

EDR Project No.: 21028

Facility Overview

- Liberty Renewables, Inc. (the Applicant) is proposing to construct the Hoffman Falls Wind Project, an up to 72-megawatt (MW) wind-powered electric generating facility and associated infrastructure within the Towns of Fenner, Nelson, and Smithfield in Madison County, New York (the Facility).
- The Facility Area totals approximately 8,300 acres and consists primarily of open agricultural fields that are actively managed to produce row and field crops, along with mixed-evergreen and evergreen forestland. In addition, the Facility Area includes woody wetlands, early successional communities, and disturbed/developed areas (e.g., roadways, residences, commercial buildings), among other land cover types.

Breeding Bird Survey Summary

- Surveys were designed and conducted based on the 2016 New York State Department of Environmental Conservation (NYSDEC) *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects*, and in consideration of the 2015 and 2021 versions of the NYSDEC *Survey Protocol for State-listed Breeding Grassland Bird Species* and the 2021 Office of Renewable Energy Siting (ORES) *Draft Field Survey Protocol for State-listed Breeding Grassland Bird Species* (Survey Protocols). Surveys began on May 20, 2021, and the final survey was completed on July 20, 2021. EDR biologists conducted one survey per week for a total of nine surveys.

- The purpose of the breeding bird survey was to identify and document avian species that utilize habitats within the lands being evaluated to host the Facility (the Facility Area) during the breeding season.
- The scope of these surveys was defined in a Breeding Bird Survey Work Plan that was submitted to ORES in June 2021. The study design and survey frequency were modified based on comments provided by ORES and NYSDEC staff.
- While data were recorded for all bird species, more detailed location and behavioral information was recorded for state-listed threatened or endangered (T&E) species.
- **BEGIN CONFIDENTIAL INFORMATION** < 
-  **>END CONFIDENTIAL INFORMATION**
- State-listed T&E and SSC observations are depicted in the attached Figure 1.

Next Steps

- Provide the full Breeding Bird Survey Report to ORES and NYSDEC on or around August 31, 2021.
- Complete winter raptor surveys for the Facility, as recommended by ORES and NYSDEC in the June 2021 Pre-Application Wildlife Site Characterization Consultation Letter.
- Once field surveys are completed, obtain a determination regarding the presence of state-listed T&E species occupied habitat and the potential for Facility-related impacts.
- Determine whether or not a Net Conservation Benefit Plan (NCBP) will be required for the Facility.

ORES and NYSDEC

August 9, 2021

Attachments: Figure 1. State-Listed Species Observations

Copies To: Scott Biggar (Liberty Renewables, Inc.)
Molly Dunton (Liberty Renewables, Inc.)
Augusta Mead (Liberty Renewables, Inc.)
James Muscato (Young/Sommer LLC)
Project File

From: Samouel Beguin
Sent: Thursday, January 6, 2022 9:42 AM
To: Murray, Joseph (ORES)
Cc: Denoncour, Brianna M (DEC); Rosenblatt, Daniel L (DEC); Higgins, Michael T (DEC); Thiel, Emily S (DEC); Martin, Delaney (DEC); Hogan, Chris M (DEC); Molly Dunton; 'Scott Biggar'; 'Augusta Mead'; Jessica Klami; James Muscato; Chris Liddle; Meg Lee; Gregory Liberman
Subject: RE: ORES Winter Raptor Survey Study Work Plan Comments - Blue Hill Wind
Attachments: 2022-01-06_Blue Hill Wind_Winter Raptor Survey Work Plan_Revised_Confidential.pdf; 2022-01-06_Blue Hill Wind_Winter Raptor Survey Work Plan Shapefiles.zip

ORES and NYSDEC Staffs,

Liberty Renewables has elected to proceed with winter raptor surveys for the Blue Hill Wind Project.

Field surveys began in November 2021 and are being conducted according to a revised Winter Raptor Survey Work Plan, which includes updates in response to ORES/NYSDEC comments from October 2021. The revised work plan and associated GIS shapefiles are attached.

Apologies for any confusion, and please feel free to reach out with questions.

Thank you,

Sam

Samouel Beguin

EDR Senior Environmental Analyst

217 Montgomery Street, Suite 1100, Syracuse, New York 13202

O: 315.471.0688 x636 www.edrdpc.com

EDR a **better** environment

From: Samouel Beguin
Sent: Thursday, November 18, 2021 10:55 AM
To: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Cc: Denoncour, Brianna M (DEC) <Brianna.Denoncour@dec.ny.gov>; Rosenblatt, Daniel L (DEC) <daniel.rosenblatt@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>; Thiel, Emily S (DEC) <Emily.Thiel@dec.ny.gov>; Martin, Delaney (DEC) <Delaney.Martin@dec.ny.gov>; Hogan, Chris M (DEC) <chris.hogan@dec.ny.gov>; Molly Dunton <mdunton@liberty-renewables.com>; 'Scott Biggar' <sbiggar@liberty-renewables.com>; 'Augusta Mead' <amead@liberty-renewables.com>; Jessica Klami <jklami@youngsommer.com>; James Muscato <jmuscato@youngsommer.com>; Chris Liddle <cliddle@edrdpc.com>; Meg Lee <mlee@edrdpc.com>; Gregory Liberman <gliberman@edrdpc.com>
Subject: RE: ORES Winter Raptor Survey Study Work Plan Comments - Blue Hill Wind

ORES and NYSDEC Staffs:

I wanted to follow up to inform you that Liberty Renewables will be postponing winter raptor surveys for the Blue Hill Wind Project.

Please feel free to reach out with questions.

Regards,

Sam

Samouel Beguin

EDR Senior Environmental Analyst

From: Samouel Beguin

Sent: Friday, November 5, 2021 9:26 AM

To: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>

Cc: Denoncour, Brianna M (DEC) <Brianna.Denoncour@dec.ny.gov>; Rosenblatt, Daniel L (DEC) <daniel.rosenblatt@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>; Thiel, Emily S (DEC) <Emily.Thiel@dec.ny.gov>; Martin, Delaney (DEC) <Delaney.Martin@dec.ny.gov>; Hogan, Chris M (DEC) <chris.hogan@dec.ny.gov>; Molly Dunton <mdunton@liberty-renewables.com>; 'Scott Biggar' <sbiggar@liberty-renewables.com>; 'Augusta Mead' <amead@liberty-renewables.com>; Jessica Klami <jklami@youngsommer.com>; James Muscato <jmuscato@youngsommer.com>; Chris Liddle <cliddle@edrdpc.com>; Meg Lee <mlee@edrdpc.com>; Gregory Liberman <gliberman@edrdpc.com>

Subject: RE: ORES Winter Raptor Survey Study Work Plan Comments - Blue Hill Wind

Hi Joseph,

Thank you for providing these comments on the winter raptor survey work plan submitted for the Blue Hill Wind Project.

We agree that it would be beneficial to move Evening Survey Station 4 to the west to provide views of the portion of the open field to the south that is within 250 meters of a proposed wind turbine. We anticipate that a fifth evening survey station would not be necessary with this change. EDR will provide updated shapefiles and mapping for the new location and the associated viewshed as soon as possible. We will also conduct additional field review/ground-truthing of the other viewsheds and provide updated information if needed.

Regards,

Sam

Samouel Beguin

EDR Senior Environmental Analyst

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>

Sent: Wednesday, October 27, 2021 3:04 PM

To: Samouel Beguin <sbeguin@edrdpc.com>

Cc: Denoncour, Brianna M (DEC) <Brianna.Denoncour@dec.ny.gov>; Rosenblatt, Daniel L (DEC) <daniel.rosenblatt@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>; Thiel, Emily S (DEC) <Emily.Thiel@dec.ny.gov>; Martin, Delaney (DEC) <Delaney.Martin@dec.ny.gov>; Hogan, Chris M (DEC) <chris.hogan@dec.ny.gov>; Molly Dunton <mdunton@liberty-renewables.com>; 'Scott Biggar' <sbiggar@liberty-renewables.com>

renewables.com>; 'Augusta Mead' <amead@liberty-renewables.com>; Jessica Klami <jklami@youngsommer.com>; James Muscato <jmuscato@youngsommer.com>; Chris Liddle <cliddle@edrdpc.com>; Meg Lee <mlee@edrdpc.com>; Gregory Liberman <GLiberman@edrdpc.com>

Subject: ORES Winter Raptor Survey Study Work Plan Comments - Blue Hill Wind

[EXTERNAL SENDER]

Pursuant to § 900-1.3(g)(4), Liberty Renewables, Inc. developed a pre-construction study work plan titled *Winter Raptor Survey Work Plan, Blue Hill Wind Project, Town of Eaton, Madison County, New York* dated October 2021. The Office of Renewable Energy Siting (ORES or Office) and New York State Department of Environmental Conservation (NYSDEC) reviewed this study work plan in relation to following existing protocols.

This Office, in consultation with NYSDEC, provides the following comments:

- All fields within the facility site that contain suitable habitat greater than 25 acres in size in which protect components and construction activities may be proposed, as well as open fields directly adjacent to the facility site must be covered by stationary survey points within the study work plan. Therefore, ORES recommends incorporating into the work plan at least one of the following:
 - Add a stationary point at Daytime Survey Stop Point F. A stationary point at this location will provide a viewshed of the field north of Rocks Road/Route 42. This northern edge of this field is within 250 meters of a proposed wind turbine.
 - Move Evening Survey Station 4 to the West. Relocating this station point slightly to the west will provide a viewshed of the same field from the north.
- It appears that some of the areas depicted in the “Estimated Area of Ground Visibility” shapefiles include visual barriers such as small forest patches and other treed areas. The potential exists that the open fields beyond those tree lines will not be visible by the surveyor. Therefore, additional viewshed analysis is warranted. After the initial field visit and confirmation of the stationary survey points, the applicant must provide updated shapefiles that capture the ground-truthing results of the final viewshed assessment for each stationary survey point.

Joseph R. Murray
Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

Empire State Plaza
Swan Street Building – Core 1
Albany, NY 12239
P: 518-473-4361
www.ores.ny.gov



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: April 19, 2022

Reference: Blue Hill Wind Project
Winter Raptor Surveys
State-Listed Threatened or Endangered (T&E) Species Summary

EDR Project No: 21027

Facility Overview

- Liberty Renewables Inc. (the Applicant) is planning to develop the Blue Hill Wind Project, an up to 27-megawatt (MW) wind-powered electric generating facility and associated infrastructure within the Town of Eaton in Madison County, New York (the Facility).
- The parcels under consideration for the Facility total approximately 700 acres and consist primarily of deciduous forestland and agricultural land that is actively managed to produce row and field crops (mainly corn and alfalfa).

Winter Raptor Surveys

- Surveys were designed and conducted following the New York State Department of Environmental Conservation (NYSDEC) 2021 *Survey Protocol for State-listed Wintering Grassland Raptor Species* (NYSDEC Survey Protocol). Surveys began on November 23, 2021, and the final survey was completed on March 30, 2022.
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
>END CONFIDENTIAL INFORMATION

- The surveys were intended to document the presence and use patterns of raptor species within the Winter Raptor Survey (WRS) Study Area¹ during the winter season and to identify specific habitat areas (including roost sites and foraging areas) used by state-listed raptor species.

- **BEGIN CONFIDENTIAL INFORMATION**< [REDACTED] >**END**
CONFIDENTIAL INFORMATION

- The scope of these surveys was defined in a Winter Raptor Survey Work Plan that was submitted to the Office of Renewable Energy Siting (ORES) in October 2021. The work plan was revised based on feedback from ORES and NYSDEC staff and an updated version was submitted in January 2022.

- EDR biologists conducted multiple surveys per week for a total of 75 evening stationary surveys (representing more than 112 survey-hours). Daytime driving surveys were also completed on 17 different days.

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[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] >**END CONFIDENTIAL**
INFORMATION

¹ The Winter Raptor Survey (WRS) Study Area is defined as all parcels, or portions of parcels, which are currently under consideration by the Applicant for the location of Facility components.

ORES and NYSDEC
April 19, 2022

- State-listed threatened or endangered (T&E) species observations documented during the winter raptor surveys are depicted in the attached Figure 1.

Next Steps

- Provide the full winter raptor survey report and associated GIS shapefiles to ORES and NYSDEC by mid-May 2022.
- Hold a meeting to discuss the results of the avian field surveys completed for the Facility, estimated state-listed threatened or endangered species occupied habitat that may be present, potential impacts to estimated occupied habitat, and the requirements for a Net Conservation Benefit Plan (if applicable).
- Obtain a determination regarding the presence of state-listed threatened or endangered species occupied habitat and the potential for Facility-related impacts (if any).

Attachments: Figure 1. State-Listed T&E Species Observations

Copies To: Molly Dunton, Liberty Renewables Inc.
Scott Biggar, Liberty Renewables Inc.
Toni Secreti, Liberty Renewables Inc.
Augusta Mead, Liberty Renewables Inc.
Jessica Klami, Young/Sommer LLC
James Muscato, Young/Sommer LLC

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Office of Renewable Energy Siting

KATHY HOCHUL
GOVERNOR

HOUTAN MOAVENI
EXECUTIVE DIRECTOR

Comments on Wintering Grassland Raptor Survey Study Plan Hoffman Falls Wind Facility October 31, 2022

Pursuant to 19 NYCRR § 900-1.3(g), Liberty Renewables Inc. (Applicant) has provided the *Winter Raptor Survey Work Plan, Hoffman Falls Wind Project, Towns of Fenner, Nelson, Eaton, and Smithfield, Madison County, New York* dated October 2022. The Office of Renewable Energy Siting (ORES or the Office) has reviewed this study plan in consultation with the New York State Department of Environmental Conservation (NYSDEC). In compliance with 19 NYCRR § 900-1.3(g)(4) (Chapter XVIII, Title 19 New York Codes, Rules and Regulations (NYCRR) Part 900), the Office is providing the following comments:

Field Survey Protocols for State-listed Winter Raptor Species

For major renewable energy facilities subject to Executive Law § 94-c where wintering grassland raptor surveys are recommended based upon the pre-application consultation process in 19 NYCRR §900-1.3, the Applicant is responsible for developing a pre-construction study work plan (19 NYCRR § 900-1.3(g)(4)). The Applicant's work plan should follow existing protocols¹, to the maximum extent practicable. The Office is authorized to accept a field survey work plan that can be completed in the appropriate seasonal window within one year, in compliance with 19 NYCRR § 900-1.3(g)(2)(iv). The Office is available to discuss customization of these protocols to address site-specific, project-specific factors, including but not limited to the size of the project area, the amount of open habitat within the project area, and the visibility of that habitat from proposed survey points.

The attached Data Table (Attachment A) shall be completed for all observations occurring in April and submitted with the final report.² Upon conclusion of survey work, Office Staff will review survey effort, survey results and other factors in consultation with NYSDEC to make a site-specific, project-specific determination of presence and site use by New York State-listed threatened and endangered species during the wintering grassland raptor season.

All communications to and from the Office concerning this survey are subject to Public Officers Law Article 6 (Freedom of Information Law). Accordingly, if the Applicant seeks trade secret or other protection of any report or accompanying information from disclosure, the submission must be accompanied by: (a) an appropriate request in compliance with FOIL and § 19 NYCRR 900-1.4(a)(5); and (b) a proposed redacted version of the report or other information in searchable PDF format.

¹ New York State Department of Environmental Conservation Survey Protocol for State-listed Wintering Grassland Raptor Species (as updated August 2021).

² As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

Proposed Wintering Grassland Raptor Survey Study Work Plan

Based on our desktop review of the submitted study work plan, the Office, in consultation with NYSDEC, provides the following comments:

It is recommended that survey points be added to provide full visual and auditory coverage of all open habitats having an area of 25 acres or greater within the entire facility site, including in the following approximate locations:

- Shift Evening Survey Station 3 west to Evening Survey Station 001 to provide more complete visibility of the entire field.
- Add Evening Survey Station 002 to improve coverage of the field south of Wyss Rd.
- Add Evening Survey Station 003. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.
- Add Evening Survey Station 004. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.
- Add Evening Survey Station 005 to cover the portion of this field not visible from Evening Survey Station 4.
- Add Evening Survey Station 006. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.
- Add Evening Survey Station 007 at the highest point in this field to improve coverage of the portion of this field not visible from Evening Survey Station 8.
- Add Evening Survey Station 008 within east side of the field east of Brooks Road. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.
- Add Evening Survey Station 009 to cover the portion of this irregularly shaped field not visible from Evening Survey Station 9.
- Shift Evening Survey Station 9 slightly northeast to Evening Survey Station 010 to provide more complete coverage of this irregularly shaped field.

To clarify the above, the Office provides the attached map and shapefiles depicting the approximate locations of the recommended survey points (Attachment B).

The study work plan may benefit from including some stationary points within and adjacent to the project area that cover areas not intended for development to act as control points and/or areas that the project may potentially expand into thus avoiding the need for additional surveys. Data on bird use of such areas also provide information on potential siting options that may avoid or minimize impacts to State-listed species, areas that may serve as mitigation sites, and areas that can be used as reference areas for postconstruction monitoring.

Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Any area of suitable open habitat that the Office determines has *not* been adequately surveyed, either in frequency, spatial coverage, or duration, may (1) become occupied habitat if essential behaviors are observed in habitat within ½ miles of said area, OR (2) become or remain occupied habitat if the Office determines that the Applicant's stationary survey points or protocols were not sufficient to reliably and accurately detect wintering raptor presence and behaviors within the facility boundary, OR (3) remain occupied habitat if preexisting data exist irrespective of survey results or the age of the data.

ATTACHMENT A - DATA TABLE

ATTACHMENT B - RECOMMENDED SURVEY POINTS

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Sent: Monday, October 31, 2022 9:58 AM
To: Scott Biggar; Juliana Heffern; Augusta Mead; Toni Secreti; Samouel Beguin; Meg Lee; Gregory Liberman; James Muscato; Jessica Klami
Cc: Del Puerto, Marcelo (ORES); Monfils, James (ORES); All, Briana (ORES); Thiel, Emily S (DEC)
Subject: Hoffman Falls Wind - ORES Wintering Raptor Survey Study Work Plan Comments
Attachments: 221031_Hoffman Falls Wind_ORES WRS Study Plan Comments.pdf; Attachment A - Data Table.xlsx; Attachment B - Recommended Survey Points (Hoffman Falls Wind).pdf; HoffmanFallsWind_ORES_221031.zip; Wintering Grassland Bird Survey Protocol_NYSDEC_Aug2021.pdf; Wintering Grassland Stationary Data Sheet_NYSDEC_2021.pdf

[EXTERNAL SENDER]

Pursuant to 19 NYCRR § 900-1.3(g), Liberty Renewables Inc. (Applicant) has provided the *Winter Raptor Survey Work Plan, Hoffman Falls Wind Project, Towns of Fenner, Nelson, Eaton, and Smithfield, Madison County, New York* dated October 2022. The Office of Renewable Energy Siting (ORES or the Office) has reviewed this study plan in consultation with the New York State Department of Environmental Conservation (NYSDEC).

In compliance with 19 NYCRR § 900-1.3(g)(4) (Chapter XVIII, Title 19 New York Codes, Rules and Regulations (NYCRR) Part 900), the Office provides the attached comments.

Joseph R. Murray
 Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

W.A. Harriman Campus
 Building 9 – 4th Floor
 Albany, NY 12227
 P: 518-473-4361
www.ores.ny.gov



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C.(EDR)

Date: November 17, 2022

Reference: Hoffman Falls Wind Project
Winter Raptor Survey (WRS) Work Plan Comment Responses

EDR Project No.: 21028

Background

- Liberty Renewables Inc. (the Applicant) is planning to develop the Hoffman Falls Wind Project, a wind energy generation facility of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- On behalf of the Applicant, EDR submitted a Winter Raptor Survey (WRS) Work Plan for the Facility to the Office of Renewable Energy Siting (ORES) and the New York State Department of Environmental Conservation (NYSDEC) on October 10, 2022. ORES and NYSDEC staff responded with comments on this submittal on October 31, 2022.
- The WRS study design has been revised based on this feedback, and responses to agency comments are summarized below. Updated survey locations and estimated areas of ground visibility for evening survey stations are presented in the attached **Figures 1 and 2**.

Winter Raptor Survey Work Plan Comment Responses

- Agency Comment: Shift Evening Survey Station 3 west to Evening Survey Station 001 to provide more complete visibility of the entire field.

Response: As recommended, EDR has shifted Evening Survey Station 3 further west to a new location (slightly north of ORES recommended Evening Survey Station 001). EDR conducted additional field review in November 2022 following corn harvest to verify the optimal placement for this survey location. ORES recommended Evening Survey Station 001 was visited, but Evening Survey Station 3 was selected because it provided greater ground visibility due to increased elevation. The newly selected location for Evening Survey Station 3 provides broad coverage of both on- and off-site open field areas, particularly to the east and south.

- Agency Comment: Add Evening Survey Station 002 to improve coverage of the field south of Wyss Rd.

Response: ORES recommended Evening Survey Station 002 cannot be added to the study due to access constraints and safety concerns (i.e., stream crossing under winter conditions, electric fencing, and livestock). However, the revised Evening Survey Station 3 provides considerable coverage of on- and off-site open field areas located south and southeast of Wyss Road. Daytime driving surveys will also be conducted along Wyss Road to supplement the evening surveys. Furthermore, spring raptor migration surveys conducted in 2021 provided additional coverage of this same area. Spring raptor migration surveys were conducted once per week from a location along South Road between March 4, 2021 and May 26, 2021, for a total of 13 surveys (representing more than 125 survey-hours).

- Agency Comment: Add Evening Survey Station 003. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.

Response: EDR has conducted additional review and open field boundaries have been updated in this area. No aboveground Facility components are currently planned within the open field containing ORES recommended Evening Survey Station 003. Rather, underground electrical collection lines would potentially be installed within this field, which would result in temporary disturbance only. In addition, land access permission is not currently available for the associated parcels. Given these considerations, an additional evening survey station will not be added.

- Agency Comment: Add Evening Survey Station 004. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.

Response: EDR has conducted additional review and open field boundaries have been updated in this area. No aboveground Facility components are currently planned within the open field containing ORES recommended Evening Survey Station 004. Rather, underground electrical collection lines would potentially be installed within this field, which would result in temporary disturbance only. In addition, land access permission is not currently available for the associated parcels. Given these considerations, an additional evening survey station will not be added.

- Agency Comment: Add Evening Survey Station 005 to cover the portion of this field not visible from Evening Survey Station 4.

Response: EDR conducted additional field review in November 2022, and ORES recommended Evening Survey Station 005 will not be added to the study due to complex topography in this area and the associated limited ground visibility that would be provided by the suggested survey location. As an alternative, Evening Survey Station 4 has been shifted southwest of the original location to increase ground visibility and coverage in this area.

Evening Survey Station 4 is expected to provide coverage of the portions of the open field area where Facility components are likely to be located. In addition, EDR is currently conducting fall raptor migration surveys within this same area, which will provide substantial additional coverage of the area (i.e., weekly surveys from August 15, 2022 to December 15, 2022). Finally, it is also expected that ground visibility for this survey location will improve once corn has been harvested.

- Agency Comment: Add Evening Survey Station 006. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.

Response: EDR conducted additional field review in November 2022 and open field boundaries have been updated in this area. However, ORES recommended Evening Survey Station 006 will not be added to the study, as ground visibility and coverage was limited from the recommended location. Moreover, Evening Survey Station 6 already provides sufficient ground visibility and coverage of open field areas in this portion of the WRS Study Area.

- Agency Comment: Add Evening Survey Station 007 at the highest point in this field to improve coverage of the portion of this field not visible from Evening Survey Station 8.

Response: EDR conducted additional field review in November 2022, and ORES recommended Evening Survey Station 007 will not be added to the study due to access constraints and safety concerns (i.e., electric fencing and livestock), as well as the relatively limited additional ground visibility that would be provided by the suggested survey location. The coverage provided by ORES recommended Evening Survey Station 007 did not offer substantially more coverage beyond what is already provided by Evening Survey Station 8.

- Agency Comment: Add Evening Survey Station 008 within east side of the field east of Brooks Road. This field is greater than 25 acres in size and currently not visible from any other proposed stationary survey point.

Response: ORES recommended Evening Survey Station 008 cannot be added to the study at this time due to lack of land access permission for the associated parcels. As an alternative, Evening Survey Station 14 has been added to the study to provide additional coverage of open field areas located adjacent to Brooks Road. If land access permission can be obtained during the winter raptor survey period, then this survey location may be shifted further east to improve coverage.

- Agency Comment: Add Evening Survey Station 009 to cover the portion of this irregularly shaped field not visible from Evening Survey Station 9.

Response: EDR conducted additional field review in November 2022, and ORES recommended Evening Survey Station 009 will not be added to the study. As an alternative, Evening Survey Station 9 has been shifted further north to provide improved ground visibility and coverage of this open field area. It is very likely that raptors using the northwestern and northeastern portions of this open field area will be visible in flight from the updated Evening Survey Station 9.

- Agency Comment: Shift Evening Survey Station 9 slightly northeast to Evening Survey Station 010 to provide more complete coverage of this irregularly shaped field.

Response: As noted in the previous response, EDR conducted additional field review in November 2022, and Evening Survey Station 9 has been shifted further north to provide improved ground visibility and coverage of this open field area. It is very likely that raptors using the northwestern and northeastern portions of this open field area will be visible in flight from the updated Evening Survey Station 9.

- Agency Comment: As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

Response: It is noted that entering reportable data into the New York State Breeding Bird Atlas via eBird is an optional data management tool and is not required. Therefore, as an alternative option, EDR and the Applicant have chosen to not enter the survey data into eBird at this time, and will instead provide the requested data with the Winter Raptor Survey Report. All survey data collected by EDR on behalf of the Applicant are confidential. ORES and NYSDEC are not allowed to publicly disclose the data or share the data with anyone or any third party database.

- Agency Comment: Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Response: EDR conducted additional field review to update estimated areas of ground visibility for evening survey locations to reflect conditions in November 2022. Estimated areas of ground visibility will continue to be evaluated during field surveys, and GIS shapefiles of the final estimated areas of ground visibility will be provided with the Winter Raptor Survey Report.

Additional Updates

- Evening Survey Station 1A has been added to the study. This survey location will be used instead of Evening Survey Station 1 until corn has been harvested in the associated open field area. Following the corn harvest, Evening Survey Station 1 will be used for the remainder of the winter raptor survey period.

Attachments: Figures

Copies To: Scott Biggar (Liberty Renewables Inc.)
Augusta Mead (Liberty Renewables Inc.)
Juliana Heffern (Liberty Renewables Inc.)
Jessica Klami (Young/Sommer LLC)
James Muscato (Young/Sommer LLC)
Project File

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

December 28, 2022

Kyle Crawford
EDR
41 State Street, Suite 806
Albany, NY 12207

Re: Hoffman Falls Wind Project (EDR Project No. 21028)
County: Madison Town/City: Fenner, Smithfield, Eaton, Nelson

Dear Kyle Crawford:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Although we have no records of rare or state-listed animals or plants, or significant natural communities at the project site or in its immediate vicinity, I have enclosed a report of rare birds documented within 10 miles of the project site, and rare bats documented within 40 miles of the project site, for use in assessing potential impacts of bird and bat collisions. For information on NYSDEC's environmental review of proposed wind energy projects, and for the document entitled Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects, follow this link: <https://www.dec.ny.gov/regulations/28693.html>

The absence of data at the site does not necessarily mean that rare or state-listed species, significant natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information that indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other resources may be required to fully assess impacts on biological resources.

Our database is continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the Permits staff at the NYSDEC Region 7 Office at dep.r7@dec.ny.gov, 315-426-7438.

Sincerely,



Heidi Krahling
Environmental Review Specialist
New York Natural Heritage Program

This appendix has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.

* Conservation status in NYS as ranked by NY Natural Heritage Program on a 1 to 5 scale:

S1 = Critically imperiled

S2 = Imperiled

S3 = Rare or uncommon

S4 = Abundant and apparently secure

S5 = Demonstrably abundant and secure

B after one of the above ranks indicates the status rank is for breeding populations only.

N after one of the above ranks indicates the status rank is for nonbreeding wintering populations only.



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: January 18, 2023

Reference: Hoffman Falls Wind Project
Fall Raptor Migration Surveys
State-Listed Threatened or Endangered (T&E) Species Summary

EDR Project No.: 21028

Facility Overview

- Liberty Renewables Inc. (the Applicant) is planning to develop the Hoffman Falls Wind Project, a proposed wind energy generation facility and associated infrastructure of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- The lands currently under consideration for the Facility (the Facility Area) total approximately 7,000 acres and are primarily composed of agricultural fields, along with mixed forest, evergreen forest, woody wetlands, early successional communities, and developed land (primarily rural single-family houses, farms, and associated yards).

Fall Raptor Migration Survey Summary

- The 2022 fall raptor migration surveys were designed and conducted following the 2016 New York State Department of Environmental Conservation (NYSDEC) *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects* (NYSDEC Survey Protocol; NYSDEC, 2016). The scope of these surveys was defined in a Fall Raptor Migration Survey Work Plan (Work Plan) that was submitted to the New York State Office of Renewable Energy Siting (ORES) on October 4, 2022. ORES and NYSDEC staff did not provide comments on the Work Plan.
- BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
>END CONFIDENTIAL INFORMATION

- All raptors were targeted for the study, along with large flocks of non-raptor birds and special status species (i.e., endangered species, threatened species, and species of special concern [SSC]). Raptors were noted as migratory or non-migratory based on observed behaviors and flight characteristics.
- Surveys began on August 16, 2022, and the final survey was completed on December 14, 2022. EDR biologists conducted surveys at two survey locations each week throughout the season between 8:00 a.m. and until at least two hours prior to sunset, which ranged from approximately 6:00 p.m. to approximately 2:30 p.m. as the season progressed.
- Overall, the two survey locations were visited 18 times each, for a total of 36 visits (more than 289 survey-hours).

- **BEGIN CONFIDENTIAL INFORMATION<**

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]
- [REDACTED] >END CONFIDENTIAL INFORMATION
- State-listed threatened, endangered, and special concern species documented during the 2022 fall raptor migration survey season are summarized in the attached **Table 1**. State-listed T&E species observations are depicted in the attached **Figure 1**.
- The observations noted herein are not intended, in and of themselves, to be a basis for conclusions regarding potential occupied habitat, as the mere observation of a species is not sufficient, based on the NYSDEC's guidance, to identify occupied habitat. Rather, the species must exhibit one or more essential behaviors. Per 6 NYCRR Part 182.2(f), essential behavior is defined as any of the behaviors exhibited by a species listed as endangered or threatened (in New York State) that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering. Additional details and evaluation of behaviors and potential habitat will be presented in a full Fall Raptor Migration Survey Report.

References

New York State Department of Environmental Conservation (NYSDEC). 2015. *List of Endangered, Threatened and Special Concern Fish & Wildlife Species of New York State*. Available at: <http://www.dec.ny.gov/animals/7494.html> (Accessed January 2023).

NYSDEC. 2016. *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects*. Available at: https://www.dec.ny.gov/docs/wildlife_pdf/windguide.pdf (Accessed January 2023).

Attachments: Table 1. Summary of State-Listed Species Observations
Figure 1. State-Listed T&E Species Observations

Copies To: Scott Biggar (Liberty Renewables Inc.)
Juliana Heffern (Liberty Renewables Inc.)
Toni Secreti (Liberty Renewables Inc.)
Augusta Mead (Liberty Renewables Inc.)
Jessica Klami (Young/Sommer LLC)
James Muscato (Young/Sommer LLC)

This appendix has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.

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protocol on October 10, 2022. This Office provided comments on this work plan via our email dated October 31, 2022.

Breeding bird surveys are recommended in 2023 following the *New York State Department of Environmental Conservation Survey Protocol for State-listed Breeding Grassland Bird Species* (March 2022). It is recommended the Applicant develop and submit a work plan by April 15, 2022.

If there is the potential for project elements to be located within onsite wetlands or their adjacent areas, or the construction of such elements will cause disturbance to said wetland areas, it is recommended that the applicant conduct marsh bird surveys in 2023. A work plan following NYSDEC guidance should be developed and submitted at least one month prior to the commencement of field work.

Forest raptor surveys are recommended in 2023 following the guidance provided above.

If LRI concurs with these recommendations and agrees to conduct the habitat assessments and field surveys described above, please develop appropriate pre-construction study work plans and submit for review by the Office and DEC prior to the commencement of field work, in compliance with §900-1.3(g)(4). If the Applicant opts not to conduct the recommended surveys and believes that suitable habitat for a given species is not present at the site, please provide a detailed description of the methodology used to determine that no suitable habitat exists in compliance with §900-1.3(g)(3).

This figure has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.



Office of Renewable Energy Siting

KATHY HOCHUL
GOVERNOR

HOUTAN MOAVENI
EXECUTIVE DIRECTOR

Comments on Breeding Bird Survey Study Plan Hoffman Falls Wind Facility April 21, 2023

Pursuant to 19 NYCRR § 900-1.3(g), Liberty Renewables Inc. has provided the *Breeding Bird Survey Work Plan, Hoffman Falls Wind Project, Towns of Fenner, Nelson, Eaton, and Smithfield, Madison County, New York* dated March 2023. The Office of Renewable Energy Siting (ORES or the Office) has reviewed this study plan in consultation with the New York State Department of Environmental Conservation (NYSDEC). In compliance with 19 NYCRR § 900-1.3(g)(4) (Chapter XVIII, Title 19 New York Codes, Rules and Regulations (NYCRR) Part 900), the Office is providing the following comments:

Field Survey Protocols for State-listed Breeding Grassland Bird Species

For major renewable energy facilities subject to Executive Law § 94-c where breeding grassland bird surveys are recommended based upon the pre-application consultation process in 19 NYCRR §900-1.3, the Applicant is responsible for developing a pre-construction study work plan (19 NYCRR § 900-1.3(g)(4)). The Applicant's work plan should follow existing protocols¹, to the maximum extent practicable. The Office is authorized to accept a field survey work plan that can be completed in the appropriate seasonal window within one year, in compliance with 19 NYCRR § 900-1.3(g)(2)(iv). The Office is available to discuss customization of these protocols to address site-specific, project-specific factors, including but not limited to the size of the project area, the amount of open habitat within the project area, and the visibility of that habitat from proposed survey points.

The attached Data Table (Attachment A) must be completed and submitted with the final report.² Upon conclusion of survey work, Office Staff will review survey effort, survey results and other factors in consultation with NYSDEC to make a site-specific, project-specific determination of presence and site use by New York State-listed threatened and endangered species during the breeding bird season.

All communications to and from the Office concerning this survey are subject to Public Officers Law Article 6 (Freedom of Information Law). Accordingly, if the Applicant seeks trade secret or other protection of any report or accompanying information from disclosure, the submission must be accompanied by: (a) an appropriate request in compliance with FOIL and § 19 NYCRR 900-1.4(a)(5); and (b) a proposed redacted version of the report or other information in searchable PDF format.

¹ New York State Department of Environmental Conservation Survey Protocol for State-listed Breeding Grassland Bird Species (as updated March 2022).

² As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

This appendix has been redacted from this publicly available document because it contains protected/confidential information regarding species listed as endangered, threatened, or special concern in New York.

Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Any area of suitable open habitat that the Office determines has not been adequately surveyed, either in frequency, spatial coverage, or duration, may (1) become occupied habitat if essential behaviors are observed in habitat within ½ miles of said area, OR (2) become or remain occupied habitat if the Office determines that the Applicant's stationary survey points or protocols were not sufficient to reliably and accurately detect presence and behaviors within the facility boundary, OR (3) remain occupied habitat if preexisting data exist irrespective of survey results or the age of the data.

ATTACHMENT A - DATA TABLE

ATTACHMENT B - RECOMMENDED SURVEY POINTS

From: Daniel Zvirzdin
Sent: Friday, April 21, 2023 12:46 PM
To: Samouel Beguin
Subject: FW: Hoffman Falls Wind - ORES Breeding Bird Survey Study Work Plan Comments
Attachments: 230421_Hoffman Falls Wind_ORES BBS Study Plan Comments.pdf; Attachment A - Data Table.xlsx; Attachment B - Recommended Survey Points (Hoffman Falls Wind).pdf

Thanks,

Daniel Zvirzdin
 EDR Senior Project Manager

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Sent: Friday, April 21, 2023 12:05 PM
To: Scott Biggar <sbigger@liberty-renewables.com>; Meg Lee <mlee@liberty-renewables.com>; Juliana Heffern <jheffern@liberty-renewables.com>; Jessica Klami <jklami@youngsommer.com>; Daniel Zvirzdin <dzvirzdin@edrdpc.com>; Kyle Crawford <kcrawford@edrdpc.com>; Jessica Tatten <jtatten@edrdpc.com>; James Muscato <jmuscato@youngsommer.com>
Cc: Del Puerto, Marcelo (ORES) <Marcelo.DelPuerto@ores.ny.gov>; Monfils, James (ORES) <James.Monfils@ores.ny.gov>; All, Briana (ORES) <Briana.All@ores.ny.gov>; Oberkircher, Meghan (ORES) <Meghan.Oberkircher@ores.ny.gov>; Thiel, Emily S (DEC) <Emily.Thiel@dec.ny.gov>
Subject: Hoffman Falls Wind - ORES Breeding Bird Survey Study Work Plan Comments

[EXTERNAL SENDER]

Pursuant to 19 NYCRR § 900-1.3(g), Liberty Renewables, Inc. (Applicant) has provided the *Breeding Bird Survey Work Plan, Hoffman Falls Wind Project, Towns of Fenner, Nelson, Eaton, and Smithfield, Madison County, New York* dated March 2023. The Office of Renewable Energy Siting (ORES or the Office) has reviewed this study plan in consultation with the New York State Department of Environmental Conservation (NYSDEC).

In compliance with 19 NYCRR § 900-1.3(g)(4) (Chapter XVIII, Title 19 New York Codes, Rules and Regulations (NYCRR) Part 900), the Office provides the attached comments.

Joseph R. Murray
 Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

W.A. Harriman Campus
 Building 9 – 4th Floor
 Albany, NY 12227
 P: 518-473-4361
www.ores.ny.gov



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: April 27, 2023

Reference: Hoffman Falls Wind Project
Winter Raptor Surveys
State-Listed Threatened and Endangered (T&E) Species Summary

EDR Project No: 21028

Facility Overview

- Liberty Renewables Inc. (the Applicant) is proposing to construct the Hoffman Falls Wind Project, a wind-powered electric generating facility of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- The parcels currently under consideration for the Facility (the Facility Site) total approximately 5,000 acres and consist primarily of agricultural fields, along with mixed forest, evergreen forest, woody wetlands, early successional communities, and developed land (primarily rural single-family houses, farms, and associated yards).

Winter Raptor Survey Summary

- Surveys were designed and conducted following the New York State Department of Environmental Conservation (NYSDEC) August 2021 *Survey Protocol for State-listed Wintering Grassland Raptor Species* (NYSDEC Survey Protocol). Surveys began on November 14, 2022, and the final survey was completed on April 6, 2023.
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >
>END CONFIDENTIAL INFORMATION

- The surveys were intended to document the presence and use patterns of raptor species within a defined Winter Raptor Survey (WRS) Study Area during the winter season and to identify specific habitat areas (including roost sites and foraging areas) used by state-listed raptor species.
- **BEGIN CONFIDENTIAL INFORMATION**< [REDACTED] >**END CONFIDENTIAL INFORMATION**
- The scope of these surveys was defined in a Winter Raptor Survey Work Plan that was submitted to the Office of Renewable Energy Siting (ORES) on October 10, 2022. The work plan was subsequently revised based on feedback from ORES and NYSDEC, as summarized in a comment response memorandum dated November 17, 2022.
- EDR biologists conducted multiple surveys per week for a total of 265 evening stationary surveys at 14 different locations (representing more than 415 survey-hours). Daytime driving surveys were also completed by EDR biologists at 10 different locations over a period of 20 weeks, representing a total of 20 surveys from daytime driving stops.
- **BEGIN CONFIDENTIAL INFORMATION**< [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] >**END CONFIDENTIAL INFORMATION**
- State-listed T&E species observations documented during the winter raptor surveys are depicted in the attached **Figure 1**.

ORES and NYSDEC
April 27, 2023

- The observations noted herein are not intended, in and of themselves, to be a basis for conclusions regarding potential occupied habitat, as the mere observation of a species is not sufficient, based on the NYSDEC's guidance, to identify occupied habitat. Rather, the species must exhibit one or more essential behaviors.¹ Additional details and evaluation of behaviors and potential habitat will be presented in a full Winter Raptor Survey Report.

Next Steps

- Provide a full Winter Raptor Survey Report and associated geographic information system (GIS) shapefiles to ORES and NYSDEC in May 2023.
- Complete breeding bird and marsh bird surveys for the Facility (in 2023).
- Hold a meeting to discuss the results of the avian field surveys completed for the Facility, estimated state-listed T&E species occupied habitat that may be present, potential impacts to estimated occupied habitat, and the requirements for a Net Conservation Benefit Plan (NCBP), if applicable.
- Obtain a determination regarding the presence of state-listed T&E species occupied habitat and the potential for Facility-related impacts (if any).

Attachments: Figure 1. State-Listed T&E Species Observations

Copies To: Meg Lee (Liberty Renewables Inc.)
Scott Biggar (Liberty Renewables Inc.)
Juliana Heffern (Liberty Renewables Inc.)
Jessica Klami (Young/Sommer LLC)
James Muscato (Young/Sommer LLC)

¹ 6 NYCRR Part 182.2(f) defines essential behavior as any of the behaviors exhibited by a species listed as endangered or threatened (in New York State) that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Sent: Friday, April 28, 2023 3:26 PM
To: Scott Biggar; Meg Lee; Juliana Heffern; Samouel Beguin; Daniel Zvirzdin; Kyle Crawford; Jessica Tatten; James Muscato; Jessica Klami
Cc: Del Puerto, Marcelo (ORES); Monfils, James (ORES); Thiel, Emily S (DEC)
Subject: Hoffman Falls Wind - ORES Marsh Bird Survey Study Work Plan Comments
Attachments: NYS Marsh Bird Monitoring Program Survey Instructions.pdf; North American Marsh Bird Survey Protocol.pdf; Attachment A - Recommended March Bird Survey Points (Hoffman Falls Wind).pdf

[EXTERNAL SENDER]

Pursuant to 19 NYCRR § 900-1.3(g), Liberty Renewables, Inc. (Applicant) has provided the *Mash Bird Survey Work Plan, Hoffman Falls Wind Project, Towns of Fenner, Nelson, Eaton, and Smithfield, Madison County, New York* dated April 2023. The Office of Renewable Energy Siting (ORES or the Office) has reviewed this study plan in consultation with the New York State Department of Environmental Conservation (NYSDEC).

Based on our desktop review of the submitted study plan, the Office, in consultation with NYSDEC, provides the following comments:

It appears that the study plan does not establish Primary Sampling Unit (PSU) 40km² Hexagons consistent within the *NYS Marsh Bird Monitoring Survey Instructions* (see attached). Due to the size and shape of the Facility Site, the Office recommends the use of two PSUs (i.e. A and B) each containing Secondary Sampling Units (SSU). It is recommended that PSU A contain ten (10) survey points and PSU B contain seven (7) survey points. Since the Facility Site is located within an area of high elevation (see attached *North American Marsh Bird Survey Protocol, Appendix 2*), the Office recommends adjusting the proposed survey periods so that Period 1 occurs between May 15th and May 31st, Period 2 occurs between June 1st and June 14th, and Period 3 occurs between June 15th and June 30th.

It is recommended that survey points be added to provide full visual and auditory coverage of potential marsh bird habitat within the entire facility site, including in the following approximate locations:

- Add Point A1 along farm access road transecting potential marsh bird habitat north of Cody Road
- Shift Point 7 slightly north to Point A2 so that it is located on edge of wetland complex rather than within the wetland interior
- Shift Point 9 slightly southwest to Point A3 in order to maintain 400-meter spacing between survey points
- Add Point B1 along eastern edge of wetland complex to cover potential marsh bird habitat south of Stone Bridge Road
- Add Point B2 on edge of pond to cover potential marsh bird habitat west of Brooks Road
- Shift Point 10 slightly northwest to Point B3 to better cover potential marsh bird habitat south of Stone Bridge Road

- Add Point B4 on edge of pond to cover potential marsh bird habitat north of US Route 20
- Add Point B5 on edge of wetland complex to cover potential marsh bird habitat south of Old Country Road

To clarify the above, the Office provides the attached map depicting the approximate locations of the recommended survey points (Attachment A).

In addition, the Office requests the Applicant complete and submit as part of their report the following data forms appearing in the *NYS Marsh Bird Monitoring Survey Instructions*: 1.) *Marsh Bird Monitoring Survey Data Sheet* for each visit to a survey point during the 3 survey periods (3 data sheets per point) and 2.) *Sample Habitat Data Sheet* for each survey point once during early to mid-May (1 data sheet per point).

Joseph R. Murray
Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

W.A. Harriman Campus
Building 9 – 4th Floor
Albany, NY 12227
P: 518-473-4361
www.ores.ny.gov

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Sent: Wednesday, June 21, 2023 10:54 AM
To: mlee@liberty-renewables.com; sbiggar; jHeffern@liberty-renewables.com; Samouel Beguin; Daniel Zvirzdin; Kyle Crawford; Jessica Tatten; Megan Gillespie; James Muscato; Jessica Klami; Ayah Badran
Cc: Del Puerto, Marcelo (ORES); Monfils, James (ORES); All, Briana (ORES); Oberkircher, Meghan (ORES); Wang, Benjamin (ORES); Thiel, Emily S (DEC)
Subject: Hoffman Falls Wind - Forest Raptor Survey Work Plan

[EXTERNAL SENDER]

This email shall confirm receipt of the Forest Raptor Survey Work Plan dated June 2023 for the proposed Hoffman Falls Wind Project to be located in Madison County.

The results of this assessment shall be used by the applicant in preparation of the siting permit application as provided in section § 900-2.12 Exhibit 11. In addition, the results will be used to identify and evaluate avoidance and minimization measures incorporated into the facility design, as well as any unavoidable potential impacts to NYS species of special concern pursuant to section § 900-2.13 Exhibit 12.

This Office looks forward to reviewing the results of the assessment.

Joseph R. Murray
 Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

W.A. Harriman Campus
 Building 9 – 4th Floor
 Albany, NY 12227
 P: 518-473-4361
www.ores.ny.gov



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering &
Environmental Services, D.P.C. (EDR)

Date: July 5, 2023

Reference: Hoffman Falls Wind Project
Marsh Bird Survey (MBS) Work Plan Comment Responses

EDR Project No.: 21028

Background

- Liberty Renewables Inc. (the Applicant) is planning to develop the Hoffman Falls Wind Project, a proposed wind energy generation facility and associated infrastructure of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- On behalf of the Applicant, EDR submitted a Marsh Bird Survey (MBS) Work Plan for the Facility to the Office of Renewable Energy Siting (ORES) and the New York State Department of Environmental Conservation (NYSDEC) on April 7, 2023. ORES and NYSDEC staff responded with comments on this submittal on April 28, 2023.
- The MBS study design was revised based on this feedback and additional field review conducted by EDR. Responses to agency comments are summarized below. Revised survey locations are presented in the attached **Figure 1**.

Marsh Bird Survey Work Plan Comment Responses

- Agency Comment: It appears that the study plan does not establish Primary Sampling Unit (PSU) 40km² Hexagons consistent within the *NYS Marsh Bird Monitoring Survey Instructions* (see attached). Due to the size and shape of the Facility Site, the Office recommends the use of two PSUs (i.e. A and B) each containing Secondary Sampling Units (SSU). It is recommended that PSU A contain ten (10) survey points and PSU B contain seven (7) survey points.

Response: The Applicant and EDR agree with the use of these two PSUs for the MBS. However, based on updates made to the number of survey locations in consideration of the planned Facility layout, PSU A now contains eight survey points, and PSU B now contains two survey points.

ORES and NYSDEC

July 5, 2023

- Agency Comment: Since the Facility Site is located within an area of high elevation (see attached North American Marsh Bird Survey Protocol, Appendix 2), the Office recommends adjusting the proposed survey periods so that Period 1 occurs between May 15th and May 31st, Period 2 occurs between June 1st and June 14th, and Period 3 occurs between June 15th and June 30th.

Response: The proposed survey periods were adjusted as recommended.

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> **END CONFIDENTIAL INFORMATION**

- Agency Comment: the Office requests the Applicant complete and submit as part of their report the following data forms appearing in the *NYS Marsh Bird Monitoring Survey Instructions*: 1.) *Marsh Bird Monitoring Survey Data Sheet* for each visit to a survey point during the 3 survey periods (3 data sheets per point) and 2.) *Sample Habitat Data Sheet* for each survey point once during early to mid-May (1 data sheet per point).

Response: These recommended data forms will be completed, and copies of the data forms will be submitted as part of the MBS Report.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]

> **END CONFIDENTIAL INFORMATION**

Response: No Facility components are planned within or adjacent to (i.e., within 100 meters of) this wetland. Therefore, Point A1 was not added to the study.

- Agency Comment: Shift Point 7 slightly north to Point A2 so that it is located on edge of wetland complex rather than within the wetland interior.

Response: Point 7 has been shifted north as recommended so that it is located on the edge of the wetland complex.

- Agency Comment: Shift Point 9 slightly southwest to Point A3 in order to maintain 400-meter spacing between survey points.

Response: Response: Point 9 (now labeled as Point 8) was not shifted because the original Point 8 has been removed from the study. The associated parcel is no longer under consideration for the Facility, and no Facility components are planned within or adjacent to the associated wetland. This has resolved the 400-meter spacing comment for this area.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]
> **END CONFIDENTIAL INFORMATION**

Response: No Facility components are planned within or adjacent to (i.e., within 100 meters of) this wetland. Therefore, Point B1 was not added to the study.

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> **END CONFIDENTIAL INFORMATION**

Response: No Facility components are planned within or adjacent to (i.e., within 100 meters of) this wetland. Therefore, Point B2 was not added to the study.

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> **END CONFIDENTIAL INFORMATION**

Response: Point 10 has been removed from the study. The associated parcel is no longer under consideration for the Facility, and no Facility components are planned within or adjacent to the associated wetland.

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> **END CONFIDENTIAL INFORMATION**

Response: Point B4 was not added to the study for the following reasons: (1) it is located in close proximity to a private residence; and (2) no Facility components are planned within or adjacent to the associated wetland.

- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] > **END CONFIDENTIAL INFORMATION**

Response: Point B5 was not added to the study for the following reasons: (1) it is located in close proximity to a private residence; and (2) no Facility components are planned within or adjacent to the associated wetland south of this road.

Additional Revisions

Following the completion of additional field review, EDR also made the following revisions to the MBS locations:

- Point 2 was relocated to the northern side of the associated wetland to allow for access to the wetland edge and provide improved coverage of wetland habitat. Although Point 2 is now within 400 meters of Point 1, the forested area between the two survey locations serves as a sufficient buffer to sound for the purpose of call broadcast surveys. The two wetlands associated with these survey locations are also less than 400 meters apart, making it difficult to maintain the preferred 400-meter spacing between survey locations in this area while properly surveying potentially suitable marsh bird habitat. EDR evaluated other alternative locations for Point 2, but they did not provide suitable coverage of wetland habitat and/or did not provide sufficient access to the wetland edge.
- Point 3 was shifted slightly to the northeast to provide improved coverage of wetland habitat and safer/more efficient access.
- Point 4 was shifted north to provide improved visibility of multiple open water areas within the associated wetland.
- Point 5 was relocated to the eastern end of the pond to provide better views of wetland habitat and to allow for access to the wetland edge.
- Point 11 (now labeled as Point 9) was shifted south to provide improved visibility of open water areas within the associated wetland.

Attachments: Figure 1. Wetlands and Revised Survey Locations

Copies To: Meg Lee (Liberty Renewables Inc.)
Scott Biggar (Liberty Renewables Inc.)
Jessica Klami (Young/Sommer LLC)
James Muscato (Young/Sommer LLC)
Project File



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: July 10, 2023

Reference: Hoffman Falls Wind Project
Breeding Bird Survey (BBS) Work Plan Comment Responses

EDR Project No.: 21028

Background

- Liberty Renewables Inc. (the Applicant) is planning to develop the Hoffman Falls Wind Project, a proposed wind energy generation facility and associated infrastructure of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- On behalf of the Applicant, EDR submitted a Breeding Bird Survey (BBS) Work Plan for the Facility to the Office of Renewable Energy Siting (ORES) and the New York State Department of Environmental Conservation (NYSDEC) on March 31, 2023. ORES and NYSDEC staff responded with comments on this submittal on April 21, 2023.
- The BBS study design was revised based on this feedback and additional field review conducted by EDR. Responses to agency comments are summarized below. Revised survey locations are presented in the attached **Figure 1**.

Breeding Bird Survey Work Plan Comment Responses

- Agency Comment: Add Point A in the field north of Wyss Road to better provide full and complete coverage of the open habitat.

Response: Point 7.1 was added at the recommended location to provide improved coverage of on- and off-site open fields.

- Agency Comment: Shift Point 14 to Point B to maintain a 250-meter spacing between survey points.

Response: Point 14 was shifted as recommended to maintain 250-meter spacing between points.

- Agency Comment: Add Points C and D in the field south of Wyss Road to better provide full and complete coverage of the open habitat

Response: Points 16.1 and 16.2 were added in this area to provide improved coverage of on-site open fields. However, surveys at Points 14-17 may not be feasible due to access constraints/safety concerns (i.e., electric fencing and livestock). Access will be evaluated regularly, and alternate locations will be used when needed.

- Agency Comment: Add Point E to the field north of Hoffman Road to better provide full and complete coverage of the open habitat.

Response: Point 33.1 was added to provide improved coverage of on-site open fields. However, surveys at this location may not be feasible due to access constraints/safety concerns (i.e., electric fencing and livestock). Access will be evaluated regularly, and alternate locations will be used when needed.

- Agency Comment: Shift Point 35 to Point F and add Point G to better provide full and complete coverage of the open habitat.

Response: Point 35 was shifted north as recommended, and Point 35.1 was added to improved coverage of on-site open fields.

- Agency Comment: Shift Point 50 to Point H and add Point I to better provide full and complete coverage of the open habitat.

Response: Point 50 was shifted west as recommended, and Point 50.1 was added to provide improved coverage of on-site open fields.

- Agency Comment: Add Points J through CC to provide full and complete coverage of all open habitat on the east side of Facility Site.

*Response: A total of 12 additional point count locations (Points 69-80) were added to provide additional coverage within the eastern portion of the BBS Study Area and Facility Site. However, the inclusion of all recommended point count locations in this area is not warranted given the substantial coverage provided by 2021 BBS locations that were visited at least eight times (**Figure 1**). Point 76.1 was also added in this portion of the BBS Study Area to provide coverage of a land parcel that was added to the Facility Site.*

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- Agency Comment: As an option, reportable data may be entered into the New York State Breeding Bird Atlas (NY BBA) portal while surveyors are in the field, using the eBird mobile app, and/or bulk uploaded to eBird by the party responsible for submitting the final report.

Response: It is noted that entering reportable data into the New York State Breeding Bird Atlas via eBird is an optional data management tool and is not required. Therefore, as an alternative option, EDR and the Applicant have chosen to not enter the survey data into eBird at this time, and will instead provide the requested data with the 2023 BBS Report. All data collected for the Facility are confidential. ORES and NYSDEC are not allowed to publicly disclose the data or share the data with anyone or any third party database.

- Agency Comment: Please note that the comments above are based solely on desktop analysis of aerial imagery and open field size; therefore, the actual location of survey points may need to be adjusted based on field verification of visibility or the existence of more suitable habitat. After initial field visits and the location of stationary points are confirmed, the Applicant should provide updated shapefiles of the final ground-truthed viewshed assessment for each point.

Response: A shapefile with the final ground-truthed viewshed assessment for each point count location will be provided with the 2023 BBS Report.

Additional Revisions

- Several land parcels were removed from the BBS Study Area and the Facility Site after the BBS Work Plan was submitted. Accordingly, Points 22, 23, 25, and 26 were removed from the study.
- Surveys at Points 59 and 61 may not be feasible due to access constraints/safety concerns (i.e., electric fencing and livestock). Access will be evaluated regularly, and alternate locations will be used when needed.

ORES and NYSDEC

July 10, 2023

- Point 60 was shifted slightly north outside of a fenced livestock pasture due to safety concerns.

Attachments: Figure 1. Open Fields and Revised Survey Locations

Copies To: Meg Lee (Liberty Renewables Inc.)
Scott Biggar (Liberty Renewables Inc.)
Jessica Klami (Young/Sommer LLC)
James Muscato (Young/Sommer LLC)
Project File



Memorandum

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: August 9, 2023

Reference: Hoffman Falls Wind Project
Breeding Bird Surveys
State-Listed Threatened and Endangered (T&E) Species Summary

EDR Project No.: 21028

Facility Overview

- Liberty Renewables Inc. (the Applicant) is proposing to construct the Hoffman Falls Wind Project, a wind energy generation facility and associated infrastructure of up to 100 megawatts (MW) within the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility).
- The parcels under consideration for the Facility (the Facility Site) currently total approximately 4,200 acres and consist primarily of agricultural land that is actively managed to produce row crops (mainly soybeans and corn), pastureland, and hayfields. In addition, areas of deciduous, mixed, and evergreen forest, woody wetlands, early successional communities, and developed land (primarily rural single-family houses, farms, and associated yards) are present.
- The Breeding Bird Survey (BBS) Study Area that was surveyed in 2023 totals approximately 4,600 acres and corresponds closely with the current Facility Site. Several land parcels have been removed from the Facility Site since the start of breeding bird surveys conducted in 2023.

Breeding Bird Survey Summary

- The 2023 surveys were designed and conducted following the 2022 NYSDEC *Survey Protocol for State-listed Breeding Grassland Bird Species*. The scope of these surveys was defined in a Breeding Bird Survey Work Plan that was submitted to Office of Renewable Energy Siting (ORES) on March 31, 2023. ORES and New York State Department of Environmental Conservation (NYSDEC) staff reviewed the Breeding Bird Survey Work Plan and provided comments on April 21, 2023. Revisions were made to the study design based on agency feedback.

ORES and NYSDEC
August 9, 2023

- The purpose of the breeding bird study was to identify and document avian species, (including state-listed species) that utilize habitats within the lands being evaluated to host the Facility during the breeding season.
- **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] >**END CONFIDENTIAL INFORMATION**
- Surveys for the remaining point count locations began the week of May 15, 2023. EDR biologists conducted morning surveys approximately weekly throughout the season, and point count locations were visited up to 11 times each. The final survey was completed on July 20, 2023.
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- [REDACTED] **END CONFIDENTIAL INFORMATION**
- State-listed threatened and endangered (T&E) species documented during the 2023 breeding bird survey season are depicted in the attached **Figure 1**.
- The observations noted herein are not intended, in and of themselves, to be a basis for conclusions regarding potential occupied habitat, as the mere observation of a species is not sufficient, based on the NYSDEC's guidance, to identify occupied habitat. Rather, the species must exhibit one or more essential behaviors.¹ Additional details and evaluation of behaviors and potential habitat will be presented in a full Breeding Bird Survey Report.

¹ 6 NYCRR Part 182.2(f) defines essential behavior as any of the behaviors exhibited by a species listed as endangered or threatened (in New York State) that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

Next Steps

- Provide the Breeding Bird Survey Report and associated geographic information system (GIS) shapefiles to ORES and NYSDEC in the coming weeks.
- Hold a meeting to discuss the results of the avian field surveys completed for the Facility, estimated state-listed T&E species occupied habitat that may be present, potential impacts to estimated occupied habitat, and the requirements for a Net Conservation Benefit Plan.
- Obtain a determination regarding the presence of state-listed T&E species occupied habitat and the potential for Facility-related impacts.

Attachments: Figure 1. State-Listed Threatened and Endangered (T&E) Species Observations

Copies To: Meg Lee (Liberty Renewables Inc.)
Scott Biggar (Liberty Renewables Inc.)
James Muscato (Young/Sommer LLC)
Jessica Klami (Young/Sommer LLC)

From: Murray, Joseph (ORES) <Joseph.Murray@ores.ny.gov>
Sent: Monday, October 23, 2023 9:35 AM
To: Meg Lee; Scott Biggar; Jessica Klami; Samouel Beguin; Daniel Zvirzdin; Jessica Tatten; James Muscato
Cc: Del Puerto, Marcelo (ORES); Monfils, James (ORES); Martin, Delaney (DEC)
Subject: Hoffman Falls Wind Project - NYS Threatened and Endangered Species Reports
Attachments: 231023_Hoffman Falls Wind_Wintering OH_ORES_CONFIDENTIAL.pdf; 231023_Hoffman Falls Wind_Breeding OH_ORES_CONFIDENTIAL.pdf; Draft Applicant Grassland Bird Occupied Habitat Field by Field Analysis Submission Table.xlsx

[EXTERNAL SENDER]

This email shall serve to confirm this Office's receipt of the required NYS threatened and endangered species habitat assessment and survey reports for the proposed Hoffman Falls Wind Project to be located in Madison County.

Liberty Renewables Inc. (Applicant) provided the following avian surveys: Hoffman Falls Wind Forest Raptor Survey Report dated October 2023; Hoffman Falls Wind Breeding Bird Survey Report dated October 2023; Hoffman Falls Wind Marsh Bird Report dated August 2023; Hoffman Falls Wind Winter Raptor Survey Report dated June 2023; Hoffman Falls Wind Fall Raptor Migration Survey Report dated February 2023; Hoffman Falls Wind Breeding Bird Survey Report dated September 2021; Hoffman Falls Wind Spring Raptor Migration Survey dated June 2021; Blue Hill Wind Winter Raptor Survey Report dated May 2022; Blue Hill Wind Fall Raptor Migration Survey Report dated January 2022; Blue Hill Wind Breeding Bird Survey Report dated September 2021; Blue Hill Wind Spring Raptor Migration Survey Report dated July 2021.

To facilitate the design of a facility that avoids, minimizes, and mitigates potential impacts to NYS threatened or endangered species to the greatest extent practicable, ORES, in consultation with NYSDEC, provides the attached map representing locations within the project that would preliminarily be considered occupied habitat based all relevant historic data and Applicant survey data provided to-date.

In preparation for the conference [pursuant to § 900-1.3(g)(6)] to discuss whether occupied habitat exists within the facility site and, if applicable, requirements for the Net Conservation Benefit Plan, please submit the following:

- Shapefiles depicting the current facility design and location of project components as it will likely appear in the forthcoming 94-C application filing.
- A field by field analysis of the Applicant's preliminary estimate regarding the amount of grassland bird occupied habitat at the facility site, the boundary of the occupied habitat, whether de minimis levels as provided in section § 900-2.3(e) might be attainable for grassland birds, and the amount of impact that cannot be avoided.
- A completed Draft Applicant Grassland Bird Occupied Habitat Field by Field Analysis Submission Table (see attached). To focus our discussion at the upcoming conference, only fields located within the occupied habitat identified in the attached maps need to be described in the table provided.

- [REDACTED]

Upon receipt of the requested information, ORES will schedule a meeting for the agencies and the Applicant to discuss our occupied habitat estimates. Within thirty (30) days of that meeting, the Office, in consultation with NYSDEC, will provide our draft determination pursuant to § 900-1.3(g)(7) regarding whether occupied habitat exists on site, our incidental take estimate, and other requirements for the Net Conservation Benefit Plan based on the current facility design provided by the applicant.

Joseph R. Murray

Environmental Analyst 2

Office of Renewable Energy Siting (ORES)

W.A. Harriman Campus

Building 9 – 4th Floor

Albany, NY 12227

P: 518-473-4361

www.ores.ny.gov

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: October 27, 2023

Reference: Hoffman Falls Wind Project
Estimated Occupied Habitat Analysis

EDR Project No.: 21028

Introduction

- Liberty Renewables Inc. (the Applicant) is proposing to construct a wind energy generation facility and associated infrastructure (the Facility) of up to 100 megawatts (MW) located in the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York.
- The Facility Site is an approximately 4,050-acre area, and includes all parcels, or portions of parcels, which are currently under consideration by the Applicant for the location of Facility components.
- The Facility Site is primarily composed of agricultural fields, along with mixed forest, evergreen forest, woody wetlands, early successional communities, and developed land (primarily rural single-family houses, farms, and associated yards).
- In a pre-application consultation meeting held on June 11, 2021, and in an updated letter that was subsequently issued on March 6, 2023, the Office of Renewable Energy Siting (ORES) noted that the Facility is not sited within areas of previously mapped occupied habitat for any state-listed species. However, ORES and New York State Department of Environmental Conservation (NYSDEC) staff recommended conducting winter raptor surveys, breeding bird surveys, marsh bird surveys, and forest raptor surveys for the Facility.
- Winter raptor surveys were conducted during the 2021-2022 and 2022-2023 seasons. On-site breeding bird surveys were conducted in 2021 and 2023. Marsh bird surveys and forest raptor surveys were conducted in 2023.
- In addition to these studies, spring and fall raptor migration surveys were also conducted for the Facility in 2021 and 2022. Eagle point count surveys are also being conducted for the Facility following federal guidance.

- EDR also reviewed and considered the results of avian field studies completed in 2021 and 2022 for the previously proposed Blue Hill Wind Project in the Town of Eaton, which has since been combined with the Facility.
- This memorandum summarizes pre-construction avian surveys that have been completed for the Facility, along with EDR's estimate of occupied habitat based on the results of these surveys and data provided by ORES. An estimate of areas where Facility components may be located within estimated occupied habitat is also provided herein. This memorandum is being submitted in anticipation of a meeting with ORES to discuss whether occupied habitat exists within the Facility Site and, if applicable, requirements for a Net Conservation Benefit Plan.
- As part of evaluating estimated occupied habitat for state-listed grassland bird species, EDR digitized the boundaries of open fields located within, or partially within, the Facility Site (**Attachment 1, Figure 1**).
- The results of the pre-construction avian surveys are summarized in the following sections.

Summary of Pre-Construction Avian Surveys

2021 Spring Raptor Migration Surveys

- Spring raptor migration surveys were conducted from March 4 to May 26, 2021.
- One survey location (**Attachment 1, Figure 2**) was visited 13 times representing more than 125 survey-hours. Surveys were conducted once per week between 8:00 a.m. and until at least two hours prior to sunset, which ranged from approximately 2:00 p.m. to approximately 6:00 p.m. as the season progressed.

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- Spring raptor migration surveys were also conducted for the portion of the Facility Site that corresponds with the previously proposed Blue Hill Wind Project between March 4 and May 7, 2021. A total of 13 surveys were conducted at one survey location (**Attachment 1, Figure 2**).
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2021 Breeding Bird Surveys

- Initial breeding bird surveys were conducted from May 20 to July 20, 2021.
- Point count surveys were conducted at 51 locations along 11 meander transects (**Attachment 1, Figure 2**). Morning surveys were conducted on 10 different days, and each point count survey location was visited at least four times throughout the survey period.
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- Breeding bird surveys were also completed between May 20 and July 22, 2021 within the portion of the Facility Site that corresponds with the previously proposed Blue Hill Wind Project.

- A total of 24 point count locations along six meander transects were established for this study (**Attachment 1, Figure 2**). Surveys were conducted on 10 different days, and included a total of 220 breeding bird point count surveys and 1,100 survey-minutes. No state-listed threatened or endangered species were observed during these surveys.

2021 and 2022 Fall Raptor Migration Surveys

- Fall raptor migration surveys were conducted from August 16 to December 14, 2022.
- Two survey locations were established for this study (**Attachment 1, Figure 2**). A total of 26 surveys were conducted, totaling 297 observer-hours.
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- Fall raptor migration surveys were also conducted for the portion of the Facility Site that corresponds with the previously proposed Blue Hill Wind Project between August 17 and December 14, 2021. A total of 18 surveys were conducted at one survey location (**Attachment 1, Figure 2**).

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2021-2023 Winter Raptor Surveys

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- A total of 14 evening survey stations and 10 daytime driving survey stops were established for this effort (**Attachment 1, Figure 2**).
- Over the course of the survey period, 265 evening stationary surveys were completed and a total of 20 surveys were conducted at each daytime driving survey stop.
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- Winter raptor surveys were also conducted for the portion of the Facility Site that corresponds with the previously proposed Blue Hill Wind Project between November 23, 2021, and March 30, 2022.

- A total of four evening survey stations and seven daytime driving survey stops were established for this effort (**Attachment 1, Figure 2**).
- Over the course of the survey period, 75 evening stationary surveys were completed and a total of 17 surveys were conducted at each daytime driving survey stop.
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2023 Breeding Bird Surveys

- Additional breeding bird surveys were conducted between May 4 and July 20, 2023.
- A total of 83 point count locations were established for the study (**Attachment 1, Figure 2**). In total, morning point count surveys were completed on 30 different days and included a total of 770 breeding bird point count surveys and 3,850 survey-minutes.
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CONFIDENTIAL INFORMATION

2023 Marsh Bird Surveys

- Marsh bird surveys were conducted during each of the three survey periods on May 18, June 7, and June 23, 2023. A total of 10 point count locations were established for the study (**Attachment 1, Figure 2**). Morning point count surveys were completed on three different days and included a total of 30 marsh bird point count surveys and 330 survey-minutes.

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2023 Forest Raptor Surveys

- Forest raptor surveys were conducted between July 5, 2023, and August 3, 2023, at nine different sampling hexagon locations (**Attachment 1, Figure 2**). The overall survey effort, including travel among sampling hexagons and vegetation/habitat surveys, totaled approximately 5,095 survey-minutes (more than 84 survey-hours).
- No observations of state-listed threatened or endangered raptors were documented during the survey period (including incidentally outside of the timed surveys).

2023 Eagle Point Count Surveys

- Eagle point count surveys are currently being conducted for the Facility following federal guidance. Eagle point count surveys began on March 15, 2023, and will continue each month for up to two years. Observations recorded through October 10, 2023 have been included in this occupied habitat analysis.
- A total of 11 point count locations were established for the eagle point count surveys (**Attachment 1, Figure 2**). For this study, each point count location is visited and surveyed at least once each month.

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Estimated Occupied Habitat

- State-listed threatened and endangered (T&E) species observations documented during the pre-construction avian surveys are presented in **Attachment 1, Figures 3 to 7.**

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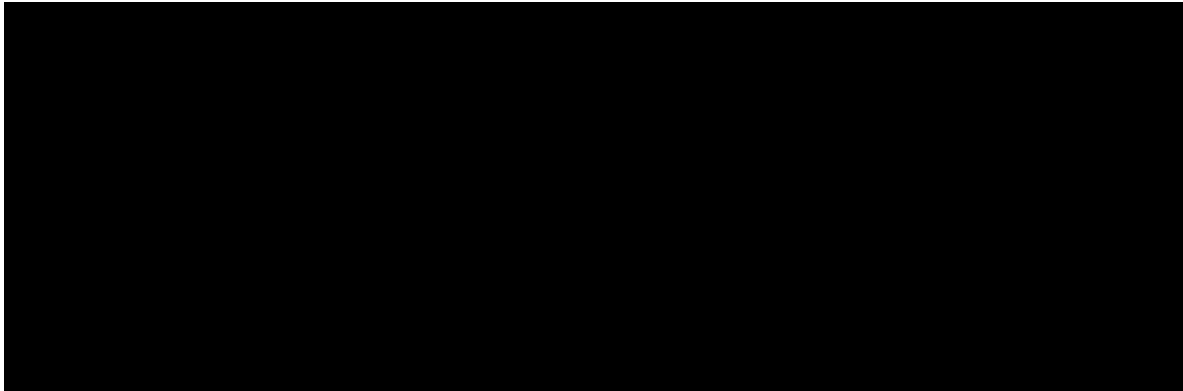
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>END CONFIDENTIAL INFORMATION

Estimated Take

- Given the current locations of Facility components with aboveground and relatively permanent footprints (e.g., wind turbines, access roads) in relation to estimated occupied habitat areas, “take” is anticipated to result from Facility construction.
- To estimate potential adverse modification of occupied habitat, EDR first created potential displacement buffers around aboveground Facility components.
- Specifically, the following radial buffer distances were used based on NYSDEC testimony filed for other wind projects in New York (e.g., Denoncour and Mazzocchi, 2019; Denoncour and Adams, 2019): (1) wind turbines – 250 meters; (2) meteorological and aircraft detection lighting system towers – 180 meters; (3) operations and maintenance (O&M) facility, collection substation, and point of interconnection (POI) switchyard – 100 meters; and (4) access roads – 10 meters.
- To create estimated adverse modification polygons, EDR digitized areas within the displacement buffers around Facility components that included areas that were located within estimated occupied habitat, and within open fields greater than 25 acres in size (Denoncour and Mazzocchi, 2019; Denoncour and Adams, 2019). Non-open areas (e.g., forestland, wooded hedgerows, existing disturbed/developed areas) and open fields less than 25 acres in size were not included given that they are not suitable for use by the grassland bird species in question.

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>END CONFIDENTIAL INFORMATION

Conclusions and Next Steps

- The studies conducted for the Facility to document on-site use by state-listed species to date have been effective to characterize potential impacts, and additional study work is not recommended.
- The pre-construction avian survey reports and this memorandum provide the information needed for ORES to hold a meeting with the Applicant, issue a determination of occupied habitat and incidental take, and provide guidance regarding a net conservation benefit plan to be included with the Application.

List of Threatened or Endangered Species Submissions

- The following documents were previously submitted to ORES to meet the requirements of §900-1.3(g):
 - Wildlife Site Characterization Report dated April 2021 (submitted May 3, 2021).
 - Wildlife Site Characterization Report (Blue Hill) dated April 2021 (submitted May 3, 2021).
 - Breeding Bird Survey Work Plan dated June 2021 (submitted June 3, 2021).
 - Breeding Bird Survey Work Plan (Blue Hill) dated June 2021 (submitted June 3, 2021).
 - Spring Raptor Survey T&E Species Summary Memo dated June 14, 2021 (submitted June 17, 2021).
 - Spring Raptor Survey T&E Species Summary Memo (Blue Hill) dated June 14, 2021 (submitted June 17, 2021).
 - Spring Raptor Migration Survey Report dated July 2021 (submitted July 19, 2021).
 - Spring Raptor Migration Survey Report (Blue Hill) dated July 2021 (submitted July 19, 2021).
 - Breeding Bird Survey T&E Species Summary Memo dated August 9, 2021 (submitted August 10, 2021).
 - Fall Raptor Migration Survey Work Plan (Blue Hill) dated August 2021 (submitted August 17, 2021).
 - Breeding Bird Survey Report dated September 2021 (submitted September 27, 2021).
 - Breeding Bird Survey Report (Blue Hill) dated September 2021 (submitted September 20, 2021).
 - Winter Raptor Survey Work Plan (Blue Hill) dated October 2021 (submitted October 15, 2021).
 - Revised Winter Raptor Survey Work Plan (Blue Hill) dated January 2022 (submitted January 6, 2022).
 - Fall Raptor Migration Survey Report (Blue Hill) dated January 2022 (submitted January 25, 2022).
 - Winter Raptor Survey T&E Species Summary Memo (Blue Hill) dated April 19, 2022 (submitted April 19, 2022).
 - Winter Raptor Survey Report (Blue Hill) dated May 2022 (submitted May 13, 2022).
 - Fall Raptor Migration Survey Work Plan dated August 2022 (submitted October 4, 2022).
 - Winter Raptor Survey Work Plan dated October 2022 (submitted October 10, 2022).

- Winter Raptor Survey Work Plan Comment Response Memo dated November 17, 2022 (submitted November 17, 2022).
- Fall Raptor Migration Survey T&E Species Summary Memo dated January 18, 2023 (submitted January 18, 2023).
- Revised Wildlife Site Characterization Report dated February 2023 (submitted February 2023).
- Fall Raptor Migration Survey Report dated February 2023 (submitted February 17, 2023).
- Breeding Bird Survey Work Plan dated March 2023 (submitted March 31, 2023).
- Marsh Bird Survey Work Plan dated April 2023 (submitted April 7, 2023).
- Winter Raptor Survey T&E Species Summary Memo dated April 27, 2023 (submitted April 27, 2023).
- Forest Raptor Survey Work Plan dated June 2023 (submitted June 8, 2023).
- Winter Raptor Survey Report dated June 2023 (submitted June 27, 2023).
- Marsh Bird Survey Work Plan Comment Response Memo dated July 5, 2023 (submitted July 5, 2023).
- Breeding Bird Survey Work Plan Comment Response Memo dated July 10, 2023 (submitted July 10, 2023).
- Marsh Bird Survey Report dated August 2023 (submitted August 4, 2023).
- Breeding Bird Survey T&E Species Summary Memo dated August 14, 2023 (submitted August 14, 2023).
- Breeding Bird Survey Report dated October 2023 (submitted October 4, 2023).
- Forest Raptor Survey Report dated October 2023 (submitted October 4, 2023).

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Copies To: Meg Lee (Liberty Renewables Inc.)
Scott Biggar (Liberty Renewables Inc.)
James Muscato (Young/Sommer LLC)
Jessica Klami (Young/Sommer LLC)

Attachments: Attachment 1: Figures
Attachment 2: Draft Applicant Occupied Habitat Field by Field Analysis
Submission Table

Attachment 3: BEGIN CONFIDENTIAL INFORMATION <

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CONFIDENTIAL INFORMATION

Attachment 1

Figures

This figure has been redacted from this publicly available document because it contains protected/confidential information regarding the proposed facility location and/or the detailed locations of NYS threatened or endangered species.

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Attachment 2

Draft Applicant Occupied Habitat Field by Field Analysis Submission Table

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Attachment 3

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
 New York Ecological Services Field Office
 3817 Luker Road
 Cortland, NY 13045-9385
 Phone: (607) 753-9334 Fax: (607) 753-9699
 Email Address: fw5es_nyfo@fws.gov



In Reply Refer To:
 Project Code: 2023-0128484
 Project Name: Hoffman Falls Wind

December 28, 2023

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

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through IPaC by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see [Migratory Bird Permit | What We Do | U.S. Fish & Wildlife Service \(fws.gov\)](#).

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

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

12/28/2023

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Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

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

This species list is provided by:

New York Ecological Services Field Office

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

PROJECT SUMMARY

Project Code: 2023-0128484

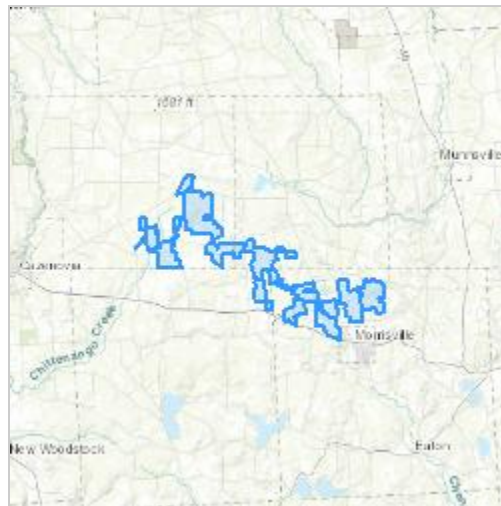
Project Name: Hoffman Falls Wind

Project Type: Power Gen - Wind

Project Description: The proposed Facility is a utility-scale wind energy generating project located in Madison County, New York with a generating capacity of up to 100 megawatts. The Facility will include up to 24 wind turbines, with 12 located in the Town of Fenner, three in the Town of Smithfield, one in the Town of Nelson, and eight in the Town of Eaton. Associated support facilities will include an underground medium voltage collection system, gravel access roads, a permanent meteorological tower, aircraft detection lighting system towers, temporary construction laydown areas, a concrete batch plant, an operations and maintenance facility, a medium voltage-to-transmission voltage collection substation, a point of interconnection switchyard, and a short 115kV overhead transmission line that will connect the Facility to the high voltage electrical grid.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.955007800000004,-75.74040859002669,14z>



Counties: Madison County, New York

<p> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381</p>
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CRITICAL HABITATS

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

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

12/28/2023

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IPAC USER CONTACT INFORMATION

Agency: Environmental Design and Research, D.P.C. (EDR)

Name: Jessica DeToy

Address: 274 N. Goodman Street

City: Rochester

State: NY

Zip: 14607

Email: jdetoy@edrdpc.com

Phone: 5854744593

To: Office of Renewable Energy Siting (ORES)
New York State Department of Environmental Conservation (NYSDEC)

From: Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR)

Date: December 19, 2023

Reference: Hoffman Falls Wind Project (Permit Application No. 23-00038)
Response to Draft Occupied Habitat Take Determination

EDR Project No: 21028

Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR) has prepared this memorandum on behalf of Hoffman Falls Wind LLC, a wholly owned subsidiary of Liberty Renewables Inc. (the Applicant) for a proposed wind energy generation facility located in the Towns of Fenner, Nelson, Eaton, and Smithfield in Madison County, New York (the Facility). The Facility is being reviewed under New York’s Accelerated Renewable Energy Growth and Community Benefit Act, Executive Law § 94-c (Section 94-c), which is being administered by the Office of Renewable Energy Siting (ORES).

An Estimated Occupied Habitat Memorandum (the Occupied Habitat Memo) was submitted to the Office of Renewable Energy Siting (ORES) and New York State Department of Environmental Conservation (NYSDEC) staff on October 26, 2023 (EDR, 2023a). The Occupied Habitat Memo summarized pre-construction avian surveys that have been completed for the Facility, along with EDR’s estimate of occupied habitat¹ based on the results of these surveys and data provided by ORES. An estimate of areas where Facility components may be located within estimated occupied habitat was also provided.

A meeting was held with ORES and NYSDEC staff on November 30, 2023 to discuss whether occupied habitat exists within the Facility Site, estimated Facility-related adverse impacts to occupied habitat (i.e., “take”), and requirements for a Net Conservation Benefit Plan. Prior to this meeting, a draft occupied habitat take determination was provided by ORES on November 27,

¹ The New York State Endangered Species Act (Environmental Conservation Law §11-0535) and its implementing regulations at 6 New York Codes, Rules, and Regulations (NYCRR) Part 182 define occupied habitat as follows: a geographic area in New York within which a species listed as endangered or threatened in this Part has been determined by the department to exhibit one or more essential behaviors. Essential behavior refers to any of the behaviors exhibited by a species listed as endangered or threatened in this Part that are a part of its normal or traditional life cycle and that are essential to its survival and perpetuation. Essential behavior includes behaviors associated with breeding, hibernation, reproduction, feeding, sheltering, migration and overwintering.

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Acreage values and additional rationale/notes for the recommended modifications are provided in **Table 1**.

Table 1. Summary of Recommended Modifications to the ORES Occupied Habitat Take Estimate

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Open Field ID	Description	ORES Take Estimate ¹ (acres)	Potential Take Reduction (acres)	Recommended Revised Take Estimate ² (acres)	Rationale/Notes

Open Field ID	Description	ORES Take Estimate ¹ (acres)	Potential Take Reduction (acres)	Recommended Revised Take Estimate ² (acres)	Rationale/Notes

Open Field ID	Description	ORES Take Estimate ¹ (acres)	Potential Take Reduction (acres)	Recommended Revised Take Estimate ² (acres)	Rationale/Notes

¹ Based on draft information shared by ORES on November 27, 2023.

² Refer to Attachment 1, Figure 1.

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Conclusions

The Applicant and EDR have identified seven open fields for which modifications to the ORES occupied habitat take estimate are recommended. These modifications should be made in consideration of: (1) discussions that took place during the meeting held on November 30, 2023; (2) recent updates to and more detailed information on the Facility layout and design (provided with this submittal); (3) existing farm roads; (4) existing infrastructure; and (5) existing forested areas. The Applicant and EDR recommend that ORES perform additional review of this new information to ensure the final occupied habitat take estimate accurately reflects the extent of occupied habitat and the Facility's potential adverse impacts to such habitat.

Additional Comments

The Applicant and EDR request that ORES provide information regarding the studies and data used to calculate **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]

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References

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James Muscato (Young/Sommer LLC)

Attachments: Attachment 1: Figures
Attachment 2: Representative Photographs

ATTACHMENT 1

Figures

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ATTACHMENT 2

Representative Photographs

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