



**Agricola Wind Project
Towns of Venice and Scipio, Cayuga County
Permit Application No. 23-00064**

**Surface Waters Jurisdictional Determination
November 1, 2024**

Pursuant to § 1100-1.3(f)(2), Liberty Renewables provided an updated draft surface waters delineation report entitled “Wetlands and Stream Delineation Report” dated September 2024, as an attachment to the Agricola Wind Project Wetland Delineation Report Memorandum dated October 23, 2024, as well as associated photographs and GIS shapefiles received October 24, 2024, for the proposed Agricola Wind Project located in Cayuga County, New York.

Pursuant to § 1100-1.3(f)(4), the Office of Renewable Energy Siting (the Office or ORES), in consultation with the New York State Department of Environmental Conservation (NYSDEC), has determined that no state regulated surface waters were identified in the draft wetland and stream delineation report and shapefiles. The information provided in this determination will be necessary for developing Exhibit 13 (§1100-2.14) in support of an application to the Office for a major renewable energy facility.

Please note that this determination only applies to major renewable energy facilities as defined by Article VIII of the New York Public Service Law and 16 NYCRR Part 1100. This determination does not cover other projects, nor does it cover determinations under other applicable federal, state, or local jurisdictions, such as the Army Corps of Engineer’s regulatory program under Section 404 of the Clean Water Act. If the Applicant has not already done so, the Office recommends the Applicant request a meeting with the US Army Corp of Engineers as soon as possible regarding their potential regulatory jurisdiction over surface waters onsite.

This determination is valid for a period of five years from the date of this letter. After five years, determinations and delineations will be considered expired and subject to change until a new determination or delineation is conducted and the Office extends this determination or issues a new jurisdictional determination.

As a reminder, with respect to both wetlands and waterbodies, the Applicant must first provide a written explanation of how the Facility design avoids impacts to identified natural resources (Exhibit 13 Water Resources and Aquatic Ecology, 16 NYCRR §1100-2.14(b)(5)) (Exhibit 14 Wetlands, 16 NYCRR 1100-2.15(e)). For impacts that cannot be avoided, the Applicant must then provide a written explanation of all efforts taken to minimize impacts of the proposed Facility to the relevant identified natural resources (Exhibit 13 Water Resources and Aquatic Ecology, see e.g., 16 NYCRR §1100-2.14(b)(6) and (c)) (Exhibit 14 Wetlands, 16 NYCRR §1100-2.15(f)).

For impacts which cannot be avoided or minimized, the Applicant must provide the Office with sufficient information to determine whether impact(s) will be mitigated to the maximum extent practicable. While final details concerning proposed mitigation measures can be deferred to the required pre-construction mitigation plan for each resource area (Exhibit 13 Water Resources and Aquatic Ecology, 16 NYCRR §1100-2.14(b)(7) and Exhibit 14 Wetlands, 16 NYCRR §1100-2.15(g)), a sufficient showing of proposed mitigation measures is required at the application stage for the Office, in consultation with NYSDEC, to make the required determinations in Public Service Law VIII.

Please also include in Exhibit 13 an overview of the Office's jurisdictional determination issued in compliance with 16 NYCRR §1100-1.3(e), including a summary table showing the total linear feet of NYS-regulated streams and the acreages of NYS-regulated 50' stream buffers within the Facility area and areas to be disturbed by construction, including interconnections.

CC: NYSDEC