Supplement to the Application for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the New York State Public Service Law

Garnet Energy Center

Town of Conquest, Cayuga County, New York

Case No.: 20-F-0043

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Attachments

In response to the August 25, 2021 letter received from the Chair of the New York State Board on Electric Generation Siting and the Environment (Chair) regarding the Application filed by Garnet Energy Center, LLC (Applicant) pursuant to N.Y. Public Service Law (PSL) 164 for a Certificate of Environmental Compatibility and Public Need for the Garnet Energy Center Project (the Project), supplemental information is provided below and attached. The organization of this document (hereafter referred to as the "Supplement to the Application") is consistent with the Chair's August 25, 2021 letter and presents each comment followed by the Applicant's response to the comment.

Exhibit 11: Preliminary Design Drawings

1. Stipulation 11(f) requires "[e]levation views of inverter/transformer cabinets and energy storage system structures will be provided, including the length, width, height, material, and finish of each, as publicly available." While Exhibit 11 states that this information will be provided, this information is not included in Exhibit 11 of the Application. Please provide the required elevation views of inverter/transformer cabinets and energy storage system structures, including the length, width, height, material, and finish of each. If exact model(s) are currently unknown, please provide example views of models (inverter/transformer facilities, battery storage) under consideration (showing max. height, size, etc.).

   Response: Appendix 11-1: Preliminary Design Drawings has been revised to include elevation views of inverter/transformer cabinets and energy storage system structures, including the length, width, height, material, and finish of each component. This information can be found on Sheet C.604 of Attachment A. Additional information on the proposed inverters and energy storage system were provided as Appendices 2-3 and 2-4, respectively, in the Article 10 Application.

2. Stipulation 11(k) requires that Site plan drawings depict, among other requirements, "all field-delineated wetlands, predicted wetland boundaries and State-regulated 100-foot adjacent areas and State-regulated mapped wetlands within 100-feet of all areas to be disturbed by construction." The State-regulated wetland 100-foot adjacent areas are not included in the preliminary site plans. Please revise the site plans to include the 100-foot adjacent areas.

Response: Appendix 11-1: Preliminary Design Drawings has been revised to include the State-mapped wetland 100-foot adjacent areas and are included herein as Attachment A. The State-mapped wetland 100-foot adjacent area is also depicted in Figure 22-7 and included in the revised shapefiles provided with this Supplement.

Exhibit 17: Air Emissions

1. 16 NYCRR 1001.17(b) requires "[a]n assessment of existing ambient air quality levels and air quality trends for pollutants in the region surrounding the facility, including air quality levels and trends taken from regional air quality summaries and air quality trend reports." Application Exhibit 17 states, "[i]n 2019, the ambient air quality data collected at each monitoring station listed above were within the acceptable levels defined by the NAAQS for the monitored pollutants (NYSDEC, 2019)." Application Exhibit 17 further states, "[n]o additional local air monitoring data is available to further define air quality in the immediate vicinity of the proposed Project." However, the most recent New York State Air Quality Report, dated April 13, 2020, includes more recent ambient air quality data. Please provide a revised Exhibit 17 to include an assessment of existing ambient air quality levels and air quality trends based on the New York State Air Quality Report for 2020.

   Response: Exhibit 17 has been revised to include an assessment of existing ambient air quality levels and air quality trends based on the New York State Air Quality Report for 2020 and is included herein as Attachment B.

Exhibit 18: Safety and Security

1. 16 NYCRR §1001.18(a)(2) requires a description of "electronic security and surveillance facilities." Application Exhibit 18 does not provide this required information. Please provide a description of electronic security and surveillance facilities proposed for the Project.

   Response: As previously stated in Exhibit 18, Section 18(a)(2) of the Application, the Project will not utilize electronic security and surveillance during the construction phase. Should the Applicant determine electronic security and surveillance is needed during construction, the appropriate systems will be established for monitoring and surveillance of the Project, such as security cameras and/or other appropriate systems.

Exhibit 19: Noise and Vibration

1. Stipulation 19(n) provides that "the Application will include noise source locations (including latitude/longitude coordinates plus elevation above sea level), evaluated participating and non-participating receptor locations (including latitude/longitude coordinates plus elevation above sea level); participant and non-participant boundary lines; and noise source sound level data as obtained and as included in the model. These will be delivered directly to NYS DPS Staff by electronic means." Application Exhibit 19-Noise and Vibration, Section 19(n) - Software Input Parameters, Assumptions, and Associated Data for Computer Noise Modeling, states, "Geographic Information System (GIS) files containing modeled topography, modeled inverter and substation locations, participating and non-participating sound receptors, and all external boundary lines identified by Parcel ID number are being provided to Department of Public Service (DPS) Staff under separate cover in digital format." These required GIS files have not been provided to DPS. Please provide the GIS files containing modeled topography, modeled inverter and substation locations, participating and non-participating sound receptors, and all external boundary lines identified by Parcel ID number in digital format as required by the Stipulation.

   Response: GIS shapefiles containing modeled topography, modeled inverter and substation locations, participating and non-participating sound receptors, and all external boundary lines identified by Parcel ID number have been included as Attachment C with this submission.

Exhibit 22: Terrestrial Ecology and Wetlands

1. Stipulation 22(d)(3) provides "[a] discussion of the extent, methodology, and results of all avian, bat, amphibian, and other wildlife surveys that have been and will be conducted within the Project Area and Study Area will be included, as applicable. Information on and characterization of aquatic and terrestrial vegetation, wildlife and wildlife habitats that occur within the Project Area will be included, specifically an identification and description of plant communities, plant species and wildlife habitat. Such descriptions will include field identification of aquatic habitats, plant communities, and other wildlife habitat that could potentially support federally- or state-listed T&E species, SSC, and species of greatest conservation need (SGCN) as documented during on-site field investigations. . . ." Stipulation 22(d)(3) also specifically requires "[c]oordination with the United States Fish

and Wildlife Services (USFWS), NYSDEC, and NYNHP database to document known occurrences of bat species in the Study Area. . . .” Exhibit 22 states, “the USFWS has recommended presence/probable absence surveys for the forested portions of the Project Area where tree clearing is proposed due to mapping of this species in the surrounding area. Indiana bat presence/probable absence surveys are proposed to be conducted during the summer of 2021.” As the Application states, the surveys would be conducted in the summer of 2021. In accordance with Stipulation 22(d)(3), please provide the methodology and results of this survey.

Response: As recommended by the USFWS, an Indiana bat presence/probable absence survey was completed during the summer of 2021. A study plan based on the March 2020 USFWS *Range-wide Indiana Bat Survey Guidelines* was submitted to the USFWS on June 14, 2021 and was approved by USFWS on July 8, 2021. The study plan and associated USFWS approval are included as Attachment D. A mist-net survey was completed from July 18 to August 10 within the Project Area. Based on the approximately 260 acres of proposed tree clearing for the Project, three area sites, consisting of 42 net nights each, for a total of 126 successful net nights were surveyed. No Indiana bats were captured during this survey. Additionally, no other state or federally listed threatened or endangered bat species were captured. The final survey report is included as Attachment E and was submitted to the USFWS and NYSDEC on September 24, 2021. As the survey resulted in probable absence of the Indiana bat, the Project is anticipated to have no effect on this species and conservation measures (i.e., tree clearing restrictions) for this species are not necessary.

2. Stipulation 22(h) requires “[a] map, at a scale of sufficient detail, showing delineated boundaries based on site-identification of all federal, State and locally regulated mapped wetlands present on the Project Site and within 100 feet areas to be disturbed by construction, and the interconnections, for land under control by the Applicant.” The Applicant does not include a map or figures delineating jurisdictional boundaries of federal, State and locally regulated wetlands. Please revise the Application to reflect the delineated jurisdictional wetland boundaries (i.e., labeling federal, State, and local wetlands). Please also ensure that the shapefiles required under Stipulation 1(c)(3) and 1(d)(1) reflect the delineated jurisdictional boundaries in the revised figure provided to address this deficiency.

Response: Figure 22-7 has been updated to include the delineated jurisdictional wetland boundaries of mapped wetlands present within the Project Area and within 100 feet areas to be disturbed by construction, and the interconnections, for land under control by the Applicant. The revised Figure 22-7 has been included herein as Attachment F. Corresponding shapefiles were submitted to the U.S. Army Corps of Engineers (USACE), NYSDEC, and DPS on July 21, 2021.

3. Stipulation 22(m) requires "[a]n identification and evaluation of reasonable avoidance and minimization measures to streams, wetlands, and state-regulated 100-foot adjacent areas will be discussed including the use of alternative stream and wetland crossing methods, alternative technologies, and control of potential phosphorus and nitrogen sources from the Project. The Application's discussion of avoidance and minimization will be updated, if necessary, upon final verification of wetland boundary and any jurisdictional determinations by NYSDEC or the USACE. The Application will address the requirements of 6 NYCRR Part 663. If appropriate, mitigation shall include plans for compensatory mitigation. Such plans shall contain sections, as necessary, on grading, planting, and monitoring for success." Exhibit 22 states that the Project layout and components result in: 6.86 acres of temporary impacts and 0.26 acres of permanent impacts to delineated wetlands; 14.69 acres of temporary impacts, 29.04 acres of conversion impacts, and 0.13 acres of permanent impacts to NYSDEC mapped wetlands; and 26.84 acres of conversion impacts, 17.69 acres of temporary impacts, and 0.67 acres of permanent impacts to the NYSDEC 100-foot adjacent area. Based on the acres of proposed impacts in the current Project design, significant impacts to wetlands will occur. Please update the Application to demonstrate or fully explain avoidance or minimization as required by Stipulation 22(m) based on the impacts proposed.

Response:

In an effort to demonstrate and fully explain avoidance or minimization as required by Stipulation 22(m) based on the impacts proposed, the Applicant is offering an itemization and fuller explanation of those measures previously described as intended to avoid and minimize impacts to wetlands. It should be noted the Applicant proposes to implement not only the avoidance and minimization measures as described in the Application, but also those agreed upon as certificate conditions adopted in that are applicable to the Project that have been adopted by the Siting Board in the East Point and High River Article 10 proceedings and that have also been agreed to by NYSDEC, DPS, and the Applicant in

the Excelsior Article 10 proceeding (Case No. 19-F-0299). The following is a list of wetland avoidance and minimization measures as extracted from Section 22(m) of the Garnet Application:[1]

- Impacts (will be avoided and minimized) by utilizing existing or narrow crossing locations wherever possible, alternative siting or routing options, trenchless crossings (such as horizontal directional drilling [HDD] or other special crossing techniques) where feasible.

- The Applicant shall address this concern (for erosion and sedimentation resulting from land clearing and construction) through the imposition of a Stormwater Pollution Prevention Plan (SWPPP) being prepared for the Project for coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Discharges from Construction Activity (GP-0-20-001).

- In accordance with GP-0-20-001, Site inspections will be performed to ensure that all required erosion and sediment control measures are in place, properly positioned, and in good condition.

- As part of the analysis to avoid and/or minimize impacts to wetlands, the Applicant has sought to provide significant setbacks from Project Components to residences (minimum 250 feet) and adjoining property lines (minimum 100 feet). The Applicant's design intent is to minimize impacts to wetlands and their adjacent areas to the maximum extent practicable while also incorporating feedback from adjacent landowners who have requested substantial setbacks.

- The Applicant sought to avoid areas of steep slopes to reduce the amount of earthwork required for the Project, and therefore is required to impact wetlands/adjacent areas in order to achieve the Project's contractual generating capacity. The following is a list of wetland avoidance and minimization measures as required by and extracted from the certificate conditions for the following cases: Excelsior Energy Center, (Case No. 19-F-0299), East Point Energy Center (Case No. 17-F-0599), and High River Energy Center (Case No. 17-F-0597). The Applicant anticipates incorporating similar conditions applicable to the Project:

- Prior to the initiation of any HDD operations or the installation of any Project structures such as posts, pads, foundations or panels, a Final Detailed Geotechnical Engineering Report shall be submitted as an Information Report verifying subsurface conditions within

[1] Measures extracted from Article 10 Application Exhibit 22, Sections (l) and (m).

the Project Area, and any HDD locations. The report shall identify appropriate impact minimization measures required in locations of highly corrosive soils, soils with a high frost risk, any soils with high shrink or swell potential, and any locations where subsurface karst conditions are observed or suspected. The report shall identify areas of shallow rock that may require blasting operations.

- HDD will be used under wetlands wherever practicable.
- Erosion and sediment controls will be used at the entry and exit points of HDD, so that drilling fluid shall not escape the drill site and enter streams or wetlands. The disturbed area will be restored to original grade and reseeded upon completion of HDD.
- While conducting HDD operations under NYSDEC protected wetlands regulated pursuant to 6 NYCRR Parts 663-664, and streams, the Applicant will monitor for possible "frac- outs" that would result in the release of drilling fluids to sensitive areas as described inthe Inadvertent Return Plan. The Applicant will maintain an HDD spill response plan and the necessary response equipment will be kept on-site for the duration of the drilling. All releases of drilling fluids to sensitive areas (e.g., NYSDEC regulated wetlands, and 100-foot adjacent areas pursuant to 6 NYCRR Parts 663-664, regulated streams) shall be reported to the NYSDEC Regional Division of Environmental Permits and DPS Staff within two hours or as soon as practicable considering internet and cell phone coverage in the area.
- Drilling fluid circulation for HDD installations shall be maintained to the extent practical.If inadvertent surface returns occur in upland areas, the fluids shall be immediately contained and collected. If the amount is not enough to allow practical collection, the affected area will be diluted with freshwater and allowed to dry and dissipate naturally.If the amount of surface return exceeds that which can be collected using small pumps, drilling operations shall be suspended until surface volumes can be brought under control. If inadvertent drilling fluids surface returns occur in, or may flow into, an environmentally sensitive area (i.e., wetlands and water bodies) the returns shall be monitored and documented as described in the Inadvertent Return Plan. Drilling operations must be suspended if the surface returns pose a threat to the resource or to public health and safety. Removal of released fluids from environmentally sensitiveareas will take place only if the removal does not cause additional adverse impacts tothe resource. If inadvertent drilling fluids surface returns occur in an environmentally sensitive area the NYSDEC Regional Division of Environmental Permits shall be notified

immediately and a monitoring report, as described in the Inadvertent Return Plan, shall be submitted within 48 hours of the occurrence.

- Prior to the initiation of any HDD operations, an Inadvertent Return Plan for any HDD operations shall be submitted as a Compliance Filing. The plan shall assess the potential impacts for inadvertent returns at the proposed drilling locations, establish measures for minimizing the risk of adverse impacts to nearby environmental resources. Biodegradable drilling solutions shall be described therein and shall be used for HDD to minimize harm to aquatic species in the event of a drilling frac-out.

- Maps, site plans and profile figures, and construction details for the Facility to be constructed shall be submitted as a Compliance Filing prior to the commencement of construction (pertaining to the relevant phase of construction). Maps shall show anticipated installation methods (i.e., trenching or HDD) to be performed during construction of underground collection lines. To the extent the contractor determines, during construction activities, that installation methods should differ from that which is depicted on the site plans, such change require necessary consultation with DPS and other regulatory agencies. If the Project layout changes from that approved, a final plan addressing potential new impacts to wetlands and their associated adjacent areas regulated pursuant to 6 NYCRR Parts 663-664, shall be developed as needed to satisfy applicable State regulations in coordination with the NYSDEC and DPS.

- To maintain environmental compliance and the integrity of the Project, the Applicant will implement an environmental compliance and monitoring program and file it as part of an Information Report prior to the commencement of construction.

- A Spill Prevention, Containment and Control (SPC) Plan to minimize the potential for unintended releases of petroleum and other hazardous chemicals during Facility construction and operation shall be filed prior to commencement of construction in the Compliance Filing. The SPC Plan shall be applied to all construction activities and contain procedures for loading and unloading of fuel and oil, discharge or drainage controls, procedures in the event of discharge discovery, a discharge response procedure, a list of spill response equipment to be maintained on-site (including a fire extinguisher, shovel, tank patch kit, and oil-absorbent materials), methods of disposal of contaminated materials in the event of a discharge, and spill reporting information. Any spills shall be reported in accordance with State and/or federal regulations.

- The Applicant will provide funding for an independent, third-party Environmental Monitor

to oversee compliance and actively monitor all construction activities. All certificate conditions will be tracked to ensure compliance and oversight ofthe construction effort. The environmental compliance and monitoring program will be implemented in five phases, to include the Preparation Phase; Training Phase; Coordination Phase; Construction Phase; and Restoration Phase. When the construction phase of the Project is nearing completion in select areas, the monitor will work with the contractors to locate areas that require restoration. The Environmental Monitor will provide guidance in accordance with the Project environmental restoration plans when needed, coordinate the proper restoration efforts of the specific area, and incorporate the monitoring of these restoration areas in their daily task list. As these areas approach final restoration, the Environmental Monitor will document the results and determine if further restoration effort is needed or if the restoration area can be removed from the daily inspection list.

- Tree and vegetation clearing shall be limited to the minimum necessary for Facility construction.

- The Applicant shall meet all federal standards and conditions of any necessary wetland permit(s) as well as any conditions and regulatory requirements issued under the Section 401 Water Quality Certification in consultation with DPS staff and NYSDEC. All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, or any other environmentally deleterious materials associated with the Project.

- All construction activity, including operation of machinery, excavation, filling, grading, clearing of vegetation, disposal of waste, street paving, and stockpiling of material, is to occur within the Project Area as depicted on Project plans. No construction activity is authorized to occur within areas to be left in a natural condition or areas not specifically designated. Staking and/or flagging construction limits (i.e., right of way [ROW], off- ROW access roads, and extra work areas) shall occur prior to any ground disturbance.

- During construction, erosion control devices and measures as described in the SWPPP, including, but not limited to, straw bales or silt fences shall be installed to prevent erosion of excavated material or disturbed soil. All erosion control devices, shall be installed in accordance with construction techniques described in 2016 New York State Standards and Specifications for Erosion and Sediment Control (Blue Book), including placing the straw bales and silt fence in a shallow trench, backfilling the toe of the silt fence and securing the straw bales with stakes. All erosion and sediment control practices shall be

installed prior to any grading or filling operations, or other ground disturbance. They shall remain in place until construction is completed and the area is completely restored to pre-existing conditions. In order to minimize the risk of introduction of invasive species, use of hay bales is strictly prohibited. All disturbed soils within regulated freshwater wetlands pursuant to 6 NYCRR Parts 663-664 and the associated adjacent areas must be seeded with a native seed mix appropriate to the site.

- All equipment and machinery shall be stored and staged at least 100 feet from any stream, waterbody or wetland overnight at the end of each workday.

- Fuel or other chemical storage tanks shall be contained and located at all times in an area more than 300 feet landward of any protected wetland regulated pursuant to 6 NYCRR Parts 663-664, stream or waterbody. If the above requirement cannot be met by the Applicant, then the storage areas must be designed to completely contain any and all potential leakage.

- All mobile equipment, excluding dewatering pumps, must be fueled in locations that are a minimum of 100 feet from the top of stream bank, wetland, or other waterbody. Dewatering pumps operated closer than 100 feet from the stream bank, wetland, or waterbody, must be on an impervious surface with absorbents capable of containing any leakage of petroleum products.

- Construction vehicles and equipment will be equipped with a spill kit that is appropriate for the volume of fuel carried by the vehicle or equipment. Any leaks must be stopped and cleaned up immediately. Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the DPS, NYSDEC's Spill Hotline (1-800-457-7362), and the Town of Conquest within two hours according to the NYSDEC Spill Reporting and Initial Notification Requirements Technical Field Guidance. In an emergency situation, the contractor will work to the extent practicable to contain the impacted material until appropriate emergency spill response services arrive.

- If inadvertent drilling fluid surface returns occur in wetlands or streams, the NYSDEC's Division of Environmental Permits, Energy Project Management Bureau, NYSDEC's Regional Bureau of Ecosystem Health, and DPS Staff shall be notified within two hours or as soon practicable, considering internet and cell phone coverage in the area. A written monitoring report describing the location, estimated volume, and cleanup efforts shall be submitted to NYSDEC and DPS Staff within 24 hours of the occurrence.

- All equipment used on banks of streams or in protected wetlands regulated pursuant to 6 NYCRR Parts 663-664 and 100-foot adjacent areas must be inspected daily for leaks of petroleum, other fluids, or contaminants. A spill kit must be on hand at the immediate work site and any equipment observed to be leaking must be removed from the work site, and leaks must be contained, stopped and cleaned up immediately.

- Trenchless methods for installing buried cables through wetlands will be considered where practicable. Where trenchless methods are not practicable, trench construction through wetlands will include excavating for installation purposes and backfilling in one continuous operation. Final details of collection line trench installations and designated areas for staging, construction machinery arrangements, and bore pits will be provided on the final design drawings. Detailed trenching operations are outlined below:

a. Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of possible turbid trench water from entering the wetland;

b. Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent wetland draining during construction;

c. All wetland topsoil up to 12 inches deep shall be removed first and temporarily placed onto a geo-textile blanket running parallel to the trench, if necessary;

d. Wide-track or amphibious excavators shall be used for wetland installations;

e. Subsoil dug from the trench shall be sidecast on the opposite side of the trench from the topsoil, on another geo-textile blanket running parallel to the trench, if necessary;

f. The length of the trench to be opened shall not exceed the length that can be completed in one day. This length of trench generally should not exceed 1,500 feet in a wetland;

g. If there is an inadvertent puncturing of a hydrologic control for a wetland, then the puncture shall be immediately sealed, and no further activity shall take place until DPS and NYSDEC are notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved by the agency staffs, which approval shall not be unreasonably delayed, withheld or conditioned;

h. Only the excavated wetland topsoil and subsoil shall be utilized as backfill;

i. When backfilling occurs, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth as prior to disturbance;

j. All excess materials shall be completely removed to upland areas more than 100 feet from the wetland and suitably stabilized; and

k. The duration of work in wetlands will be minimized to the maximum extent practicable.

- Turbid water resulting from dewatering operations, including water that has infiltrated the construction site, shall not be discharged directly to or allowed to enter any wetland, stream or water body within the Project Area. Turbid water resulting from dewatering operations shall be baffled or otherwise discharged directly to settling basins, filter bags, or other New York State Standards and Specifications for Erosion and Sediment Control (2016) approved practices, or to an upland vegetated area prior to discharge to any wetland, stream or other water body within the Project Area. All other necessary measures shall be implemented to prevent erosion and any visible increase in turbidity or sedimentation downstream of the work site.

- Visibly turbid discharges from blasting, land clearing, grading or excavation and construction activities or dredging operations shall not enter any surface water body. All necessary measures shall be implemented to prevent any visible increase in turbidity or sedimentation downstream of the work site as identified in the SWPPP.

- Markers used to delineate/define the boundary of regulated freshwater wetlands, pursuant to 6 NYCRR Parts 663-664, and streams, and also the demarcated limits of disturbance for the Project shall be left in placeand remain undisturbed until completion of construction activities and restoration of the impacted area.

- Vegetative cover across all disturbed soil areas shall conform with SWPPP requirements and must be established by the end of the first full growing season following construction.

- All State-protected freshwater wetlands regulated pursuant to 6 NYCRR Parts 663-664 and associated 100-foot adjacent areas temporarily disturbed due to construction activities shall be restored to pre-existing conditions and documented cover type to the extent practicable and in accordance with the following requirements:

a. Restoration to pre-construction contours must be completed within 48 hours of final backfilling of the trench within regulated freshwater wetland boundaries and any NYSDEC regulated 100-foot adjacent area boundaries, pursuant to 6 NYCRR Parts 663-664, as applicable. Within 14 days of the completion of grading, the area shall be seeded with native vegetation at densities as existed prior to construction. Seeding shall be completed to help stabilize the soils with an appropriate native wetland species mix such

as an Ernst Wetland Mix (OBL-FACW Perennial Wetland Mix, OBL Wetland Mix, Specialized Wetland Mix for Shaded OBL-FACW, or equivalent), unless returning to agricultural production or otherwise agreed to by NYSDEC, as applicable, in regulated 100-foot adjacent areas pursuant to 6 NYCRR Parts 663-664;

b. Restored areas shall be monitored for 5 years or until an 80% cover of native specieshas been reestablished over all portions of the replanted area, unless the invasive species baseline survey indicates a smaller percentage of native species existed prior to construction;

c. In areas dominated by trees and shrubs, monitoring for woody vegetation establishment will take place during the growing season and over a 5-year period. If at the end of the fifth year the 80% cover requirement has not been established or the proportion of invasive species described in the baseline survey has increased, then the Applicant shall consult with NYSDEC. These replanted areas shall also be monitored for invasive species;

d. If at the end of five years the restored areas do not meet the above criteria for success, then monitoring and corrective action shall continue until the criteria are met.

- All construction debris (e.g., building materials, excess sediment, refuse from the work site) from the Project shall be completely removed prior to completion of restoration from a regulated freshwater wetland pursuant to 6 NYCRR Parts 663-664 and NYSDEC regulated 100-foot adjacent area (upland) pursuant to 6 NYCRR Parts 663-664, as applicable, and disposed of at a permitted waste disposal facility authorized to receive such material.

- Cleared vegetation and slash from regulated freshwater wetlands and NYS-regulated 100-foot adjacent areas pursuant to 6 NYCRR Parts 663-664 will not be burned or buried within the regulated freshwater wetland and any applicable regulated 100-foot adjacent areas. Logs and large branches will not be deposited into any regulated freshwater wetland pursuant to 6 NYCRR Parts 663-664 or any applicable NYS- regulated 100-foot adjacent areas pursuant to 6 NYCRR Parts 663-664 from outside of the regulated 100-foot adjacent area, however, small branches (slash) that are cut in a lop and drop method or piled within wetland and adjacentareas may be left in place, in a manner that does not temporarily alter the hydrology of the wetland.

- A plan for vegetation maintenance shall be included as part of the operations and maintenance (O&M) Plan to be submitted as an Information Report prior to the

commencement of commercial operation, and shall address specific standards, protocols, procedures and specifications for the vegetative management, including herbicide use and limitations, specifications and control measures. Periodically, the Applicant will assess the plan effectiveness and adjust accordingly.

- Permanent alteration of wetland hydrology is prohibited.
- On-site waste concrete containment from concrete truck clean out activity and/or any wash water from trucks, equipment or tools, must be contained in a manner that will prevent it from escaping into waterbodies, water channels, streams, and wetlands. If a discharge occurs, NYSDEC Regional Division of Environmental Permits, DPS, and the Town shall be contacted within two hours. Disposal of waste concrete or wash water is prohibited within 100 feet from any waterbody or wetland or to any area that drains to a waterbody or wetland.
- A buffer zone of 100 feet, referred to as "Restricted Activities Area" or similar on the final Facility construction drawings, shall be established where Facility construction traverses wetlands and other bodies of water. Restricted Activities Areas shall be marked in the field. Restrictions will include: no deposition of slash within or adjacent to a waterbody; no accumulation of construction debris within the area; herbicide restrictions within 100 feet of a wetland regulated pursuant to 6 NYCRR Parts 663-664, or a regulated stream, (or greater as required per label restrictions); no degradation of stream banks; no equipment washing or refueling within the area; no storage of any petroleum or chemical material; and no disposal of excess concrete or concrete wash water.
- Legible "protected area" signs, exclusionary fencing, colored flagging, and/or erosion controls pursuant to the approved SWPPP shall be installed along the approved work area to protect and clearly identify the boundaries of non-work areas associated with wetlands, waterbodies, and wetland/waterbody setbacks (e.g., Additional Temporary Work Space setbacks, refueling restrictions, etc.). This shall be done prior to any disturbance or vehicular traffic through such areas. Signs, fencing, and silt fence must be removed following completion of the Project and after all disturbed areas are appropriately stabilized as described in the SWPPP.
- Where any temporary or permanent access roads are to be constructed through wetlands, a layer of geotextile fabric shall be placed across the wetland after removal of vegetation and before any backfilling occurs. Where installation of access roads is to be constructed through wetland:

a. Temporary access roads shall use construction matting or similar;

b. Permanent access roads shall use a layer of geotextile fabric and at least six inches of gravel or crushed stone placed in the location of the wetland crossing after vegetation and topsoil is removed. Permanent access roads may require equalization culverts to maintain hydraulic connectivity;

c. Permanent access roads in wetlands shall be designed to maintain hydrological connectivity of the wetland and be designed to the minimum size needed for operational and maintenance activities, including emergency access requirements.

4. Stipulation 22(o)(1) requires an ISMCP that will include "[a] list of all non-native invasive species observed during field investigations and known to occur within the Project Area. The list of invasive plant species in areas of proposed disturbance shall be based on observations recorded concurrent with field surveys." The ISMCP lists 11 invasive plant species observed in the area. However, the shapefiles provided with the Application include 3 additional prohibited invasive species, including European buckthorn (*Rhamnus cathartica*), autumn olive (*Elaeagnus umbellata*), and pale swallow-wort (*Cynanchum rossicum*), indicating that the ISMCP does not include a list of all observed invasive species. In accordance with Stipulation 22(o)(1), please update the ISMCP to include all observed invasive species.

   Response: The ISMCP has been updated to include European buckthorn (*Rhamnus cathartica*), autumn olive (*Elaeagnus umbellata*), and pale swallow-wort (*Cynanchum rossicum*). The revised ISMCP has been included herein as Attachment G.

5. Stipulation 22(o)(4)(xi) requires an ISMCP that includes "[l]andscape re-vegetation plans, including specification of native seed mix to be used, as appropriate. The Applicant, upon review of the applicable municipal land use code and zoning law for any species preference, and/or municipal consultations, will consider the use of recommended native plant and pollinator species. The Applicant will also propose plant material that is appropriate for the region and tolerant to the climate conditions and native wildlife species." The ISMCP does not include any reference to or discussion of applicable municipal land use code and zoning law for any species preference, or any reference to municipal consultations. Please revise the to include the required information.

Response: The only municipal land use code and/or zoning law applicable to the Project is the Town's Dwelling and Structure Law. This law was reviewed, and it does not have any applicable substantive requirements for species preference. The proposed preliminary landscaping and seed mix selected are considered native/indigenous plant species. The proposed plant material has been selected to accommodate various expected items that include a naturalized planting scheme that can mitigate views to the maximum extent practicable without increasing shading concerns, are manageable from an O&M standpoint, easy to procure, tolerate the local climate conditions, are pollinator-friendly, and benefit wildlife habitats. The plant species selected accommodates these expectations. Additionally, the seed mix groundcovers have been developed by Ernst Seed Company. Ernst is a nationally known seed company, recognized by the Xerces Society, and works with and for reputable entities such as the Bureau of Land Management, Pheasant Forever, The National Wildlife Turkey Federation, University Extensions, and various state agencies. A seed mix developed specifically to be used under and around solar arrays has been proposed. This seed mix is comprised of native/indigenous-type warm and cool season grasses that provide a more consistent groundcover year-round thereby minimizing erosion and concerns and further mitigating intrusion of invasives. Additionally, the grasses typically reach maximum heights of around 3 feet tall and will tend to fall over at this height as well which reduces annual mowing regimens and shading concerns on the arrays.

Exhibit 23: Water Resources and Aquatic Ecology

1. Stipulation 23(b)(1)(c) requires "a description of the collection and transport systems for water that will be used for construction, storage, and disposal methods for wastewater from construction activities (e.g., concrete washouts), and an estimate of the maximum daily water withdrawal rates anticipated for construction." The Application does not include this information. Please revise the Application to include a description of the collection and transport systems for water, as well as an estimate of the maximum daily water withdrawal rates.

   Response: A description of the collection and transport systems for water that will be used for construction, storage, and disposal methods for wastewater from construction activities, and an estimate of the maximum daily water withdrawal rates anticipated for

construction was previously provided in Exhibit 23 of the Application, Section 23(b)(1)(III) on page 9.

2. Stipulation 23(b)(4) requires "[a]n analysis of the impact of the construction and operation of the Project and interconnections on such surface waters . . . and an identification and evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures regarding impacts on such surface waters, including precautions that will be taken to avoid or minimize dredging." Stipulation 23(b)(5) requires "[a]n identification and evaluation of reasonable avoidance measures, and where impacts are unavoidable, minimization measures, including the use of water storage, stormwater reuse, and offsetting water conservation, regarding groundwater impacts." 16 NYCRR § 1001.23(b)(4) requires "an identification and evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures regarding impacts on such surface waters." While Exhibit 23 identifies measures to avoid, minimize or mitigate impacts to surface water and ground water, Exhibit 23 does not evaluate those specific measures. Additionally, for proposed open trench stream crossings, specifically, the Application does not include an identification or evaluation of proposed restoration and/or mitigation measures. For each proposed stream crossing, please provide an evaluation of reasonable avoidance measures and, where impacts are unavoidable, mitigation measures.

Response:

a) The measures proposed to avoid or minimize impacts at the Garnet Energy Center focus on avoidance through Project design, supplemented with standard, Siting Board adopted best management practices (BMPs) for the impacts envisioned.

As noted in the Application, impacts to surface and groundwater are anticipated to be relatively minor and mostly temporary in nature, in part owing to the nature of on-site resources. For example, the Site does not overlay a primary or sole source aquifer. There are no surface drinking water intake sites in the Project Area or downstream of the Project Area within the Study Area. Only four open-water wetlands or ponds exist onsite. There are no state-protected rivers or streams on site. Areas of shallow groundwater are often defined by wetlands (see Exhibit 22), which were avoided in most cases, particularly with any earth disturbance or potential water contaminants. There are no anticipated impacts

to or take of State-listed threatened and endangered (T&E) species, species of special concern (SSC), or SGCN in aquatic habitat in the Project Area, as these species, based upon investigation of publicly available information, are not indicated to occur in the Project Area. Given the above-mentioned considerations, site selection was an effective first consideration in environmental impact avoidance.

A second important consideration in evaluating water-related impacts, and thus measures to address them, is project design. As noted in the Application, avoidance and minimization measures were implemented throughout the site. Impacts to surface and ground waters are avoided and minimized by the strategic placement of Project components. Resource surveys were conducted on site to identify, map, and evaluate all waters. Project layout was established in order to ensure water resource avoidance, and thus impact avoidance. As noted above, there are no state-protected waters on the Site, and only four open water wetlands or ponds. Of these, only one will endure permanent impacts, and, as described in the Application, that is estimated at only four square feet.

The Project will add only a small area--the equivalent of 1% of the Project Area--to impervious surface through the placement of equipment pads, the collection substation, and the point of interconnection (POI) switchyard. These impervious areas will be distributed throughout the Project Area and will have at most a negligible effect on groundwater, including recharge for the local region. Beneath the solar arrays and within the overall majority of the Project Area will be pervious land cover (grass) that will allow greater infiltration than existing areas regularly disturbed by current agricultural practices.

Minimal water use is expected during construction. The Applicant will work in consultation with the selected Engineering, Procurement, and Construction (EPC) Contractor to identify sources and locations for water necessary for construction activities. Concrete mixing trucks will have designated washout areas away from on-Site water features to ensure no impacts. While concrete batch plants are not expected to be required, they will be located in specified laydown areas or the substation yard, if needed, again in a manner to ensure no water impacts.

Project construction and operation is not anticipated have any adverse impacts on public or private water wells or to cause any impacts to drinking water. Nonetheless, the Applicant will engage a third party to conduct pre- and post-construction water potability

testing on lands for which the Applicant has been granted access. Setbacks and measures contained in the SWPPP as approved or dictated by the State, will be filed prior to construction.

Blasting operations are not anticipated to be required for Project construction. Regardless, the Applicant has developed a Preliminary Blasting Plan taking into account distances to resources of concern that outlines measures for avoidance of water supply wells or other adverse resource impacts. This Project will not utilize cooling water during any phase of construction or operation, thus eliminating this concern or a need to further evaluate measures to address impacts. The on-site storage or disposal of large volumes of substances regulated under the chemical and petroleum bulk storage programs of New York State is not proposed. Likewise, no on-site storage or disposal of large volumes of substances regulated under the chemical and petroleum bulk storage programs of New York State is proposed. Nonetheless, the Project will adhere to a SPC Plan to minimize the potential impact to aquatic resources from minor leaks or mechanical failures of construction equipment/vehicles. The SPC Plan will provide guidance and information to the personnel that would be called upon to respond to sudden oil releases from oil-filled equipment and oil storage containers; describe measures in place that would prevent released oil from reaching nearby navigable waters; describe the inspection procedures; and, discuss the discharge response actions and notifications to ensure employees are prepared to carry out their responsibilities during an oil spill incident. As is required, the SPC Plan will be submitted to the Secretary prior to construction/operation of the Project.

The Project has been designed to avoid steep slopes to the maximum extent practicable. In areas of steeper grades, as evaluated by on-site surveys, the SWPPP does account for slopes to ensure erosion is controlled and reseeding is effective.

Impacts related to the construction of stream crossing either for access roads or utility collection lines will be minimized to the maximum extent practicable by avoiding streams wherever possible. Ultimately, the installation of only eight stream crossing locations was needed, all on unprotected streams. Each site was located in the field to ensure the best specific site was selected, and then measured in the field to ensure proper sizing of culverts.

Project design eliminated open trenching for collection line crossings in all locations not also requiring a roadway crossing. As such, there will be no new impacts or impact sites as a result of open trench stream crossing. The use of HDD was assessed and determined feasible for all crossing situations, as a means to further avoid water-related impacts.

To the extent there is any potential for minor and temporary adverse impacts to surface or subsurface water resource from construction of the Project, such impacts will be further minimized through the application of the minimization measures discussed in the Application and listed below.

Nonetheless, because measures are only as good as the people that employ them, proper briefings will be used with construction crews to ensure a thorough understanding of not only how measures are to be employed, but also why. As further safeguarding, signage and construction fencing shall be installed to dictate areas where equipment access is prohibited.

As noted in the Application, proposed measures to prevent and reduce water-related impacts beyond avoidance and site design include temporary equipment bridging in those areas where a permanent access road is not required. Crossing locations are selected to ensure the lowest and narrowest banks with the most durable channel bottoms, so that the bridging in place is as safe and least impacting as practicable. Where permanent crossings for access roads are required, again, only in unprotected streams, the installation shall be timed both seasonally and with weather in mind to ensure no or low flows. Where flow exists, the stream shall be pumped around the worksite, through a dewatering basin or sediment filter bag to ensure sediment-free return. Where collector lines are installed, they shall be installed through the use of HDD, or simultaneous with the road access crossing. These lines shall be installed within the footprint of the road crossing disturbance in order to minimize impacts. Additional discussion on stream crossings and open trenching is provided below.

As with any large construction site, stormwater leading to erosion and sedimentation is one of the largest water-related concerns. Tree clearing and other grading is thought to be one of the main causes for exposed soils, and thus could contribute to this problem. However, importantly, all work on site shall conform to the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book) and as dictated by the

SWPPP created in conformance with the NYSDEC's Stormwater Construction SPDES permit, thereby minimizing and/or avoiding potential impacts.

In seeking coverage under the NYSDEC SPDES General Permit for the construction phase of the Project, a waiver to disturb five acres or more of soil at any one time will be requested. Though generally areas of five acres or larger exposed at one time is undesirable, the nature of this Project dictates otherwise. Getting the work done during one construction season or at a cost that is not prohibitive could not be possible if work had to be staged in less than 5 acre increments. The greater efficiency associated with getting done sooner was evaluated and determined to be the better approach from the standpoint of environmental protection. Prior to construction, the Applicant will be required to prepare a Final SWPPP, which will describe in specific terms the erosion and sediment control practices that will be implemented for pre-, during, and post-construction erosion and sediment runoff reduction, including green infrastructure practices, water quality treatment practices, and practices that control the volume and rate of runoff. Proposed vegetation species that may be used are provided in the SWPPP, and the use of native species will be prioritized when practical. Pre- and post-development hydrology, in addition to evaluation of runoff and drainage patterns, will be analyzed together with best practices as part of stormwater design in accordance with final Project layout for inclusion in the Final SWPPP. All measures will be in conformance with State requirements and as have been successfully implemented and evaluated by the State and the Applicant on other sites. A preliminary SWPPP was included in Appendix 23-3 of this Application.

In areas where construction activity occurs below the water table, there is always some potential to impact localized groundwater flow regimes if precautions are not taken. At the Project Area, since minimal subsurface work is proposed, it is assumed groundwater impacts will be insubstantial. Groundwater can flow around the disturbance area and assume normal flow regimes further downslope. If groundwater infiltrates work areas that occur below the water table, removal of the groundwater by pumping could slightly decrease the level of local water tables within the vicinity of the construction activity. Any impact, however, will be minimal, localized, and temporary. Measures to restore the groundwater levels in such instances are not thought necessary as recovery will be quick. All water subject to pumping operations needed to facilitate work will be pumped to the surface and discharged using a technique for decreasing its outlet velocity. Slowly discharged water through sediment bags or grass detention basins as appropriate, will be

allowed to permeate back into the ground and re-settle below the water table downslope. Where possible, the location selected for re-infiltration into the water table will occur on permeable soils, which will help increase the rate of infiltration and reduce net loss of water volumes to evaporation.

In light of these precautions, impacts are assessed to be minimal. Nonetheless, groundwater migration events could result from the installation of buried interconnection lines which may facilitate groundwater travel along the loosened soils surrounding the buried collection lines. From past experience, it is understood water could collect in the trench and migrate along the trench route to areas downslope. Trench plugs may be used where deemed appropriate in any areas potentially affecting water resources.

Some minimal seasonal thermal changes to waterbodies may occur as a result of clearing adjacent vegetation. However, proposed clearing in these areas has been minimized to the maximum extent practicable while retaining the capability of placing enough modules to achieve the contracted 200-MW generating capacity. An assessment of these impacts resulted in a restriction to 12.6 acres of Type II tree clearing, which does not result in soil disturbance. Such clearing is proposed along thirteen stream segments within the Project Area. Nine of these streams are ephemeral or intermittent and all are either unclassified or at best have a NYSDEC classification of C, which represents non-trout waters typically supporting a warm water fishery. Streams on site ultimately drain to class C streams off site. In each case, clearing in the vicinity of streams on site shall incorporate a 25-foot buffer wherein clearing is restricted to Type II. No ground disturbance (e.g. excavation, stump grading, rutting, root removal) is allowed in this buffer zone.

As part of typical Article 10 certificate conditions, an Environmental Monitor will be in place throughout the work period and during the restoration period to inspect and assess water quality risks and to mitigate any unforeseen issues specific to the nature of the Project Area. Additional discussion specific to stream crossings for roadways and conduit is provided below.

b) Open trench stream crossings at the Garnet Energy Center are proposed only for Underground Medium Voltage (UMV) lines, and only in three locations. In each of the three cases where open trenching may be employed, the UMV lines are crossing at proposed road crossings. This is most protective owing to the fact that these crossing sites

will already be either naturally dry or coffered off to facilitate the roadway installation in dry conditions. As such, impacts and impact avoidance measures will already have been largely assessed and addressed via the road crossing measures.

All other lines were designed to avoid open trench crossing and HDD will be used instead. In so doing, the impacts to the stream are avoided. In light of the minimal number of crossing locations, compensatory mitigation for stream impacts, as may be required under the USACE permitting program effective for some issued Nationwide Permits (NWPs) this year, is not assumed necessary as the total stream impacts are well under the 300 foot threshold for stream mitigation associated with those NWPs requiring mitigation.

c) The installation of roadways and crossings is a significant undertaking. This is not only because materials and construction are costly, but because the area of roadways detracts from the area available for infrastructure installed to directly produce, collect, and transfer renewable energy. For this reason, the first design principal is to reduce the length or roads and the number of crossings. The use of existing roadways and crossings is a preference wherever possible. Ultimately roadways and stream crossings are installed only where necessary to reach portions of the Site required to be developed to meet capacity requirements. At the Garnet Energy Site, state-protected streams were avoided not by site design, but by site selection—there are none. Ultimately, total stream crossings on this site equate to only eight non-State protected streams. Impact minimization measures at these required crossing locations are all intended to ensure water quality is sustained during and after construction.

On site evaluation of the crossing locations was conducted to ensure the best locations were picked relative to bank height and stream width. Narrower crossings allow for smaller diameter culverts, less fill near or over the waterway, a quicker installation time and generally a safer span, all desirable traits.

Nonetheless, when the crossing of a surface water resource is deemed necessary for the Project, BMPs will be put into place following the Article 10 certificate conditions adopted by the Board previously. Past experience and current USACE NWP conditions dictate a culvert width 1.25 times the ordinary high water line width, with culverts countersunk 20% of their diameter.

During construction, the use of silt fences, straw bales, siltation catch basins, check dams, and other standardized sedimentation control measures will be installed and maintained throughout the Project and until impact areas become stabilized as determined by the Environmental Monitor (EM). To facilitate soil stabilization, exposed soils will be seeded and mulched in a timely manner to reduce the risk of sedimentation events arising from storm events. Control measures will be dictated in the Project SWPPP. Their locations and design will be shown on appropriate construction drawings.

Changes to in-stream structure and morphology of streams are not expected or will be minimal due to the use of culverts and temporary crossings. The effect of turbidity on nearby aquatic habitat will be reduced by following the SWPPP and the certificate conditions.

Proposed erosion and sediment control measures to be used to prevent and reduce impacts to streams during stream crossing activities include temporary equipment bridges, damming and pumping stream crossings, dewatering basins, sediment filter bags, stream bank matting, and trench plugs in those three instances of trenched crossings for electrical collection line.

Buffer restrictions will include no equipment refueling or washing in the buffer area, no storage of petroleum or chemical materials, no disposal of concrete or wash water, no amassing of construction debris or accumulation of slash materials in the area, no use of herbicides within the area, and no actions that may result in the degradation of waterbody banks or steep slopes above water resources.

3. Stipulation 23(b)(7) provides that "[c]ulvert calculations will be detailed, and culvert capacity will be demonstrated with BMP considerations for culvert placement. The feasibility of using trenchless stream crossings will be assessed for all streams proposed to be crossed. BMPs will be utilized year-round for all stream crossings. Where impacts are deemed unavoidable, proposed measures to minimize impacts to the maximum extent practicable will be discussed. If necessary, this discussion will be updated in any required Compliance Filing or filed with the Secretary upon verification of wetland boundaries and any issued jurisdictional determinations. Final impact calculations will be based on verified delineation boundaries for jurisdictional wetlands." Exhibit 23 refers to Appendix 11-1 for this information; however, Appendix 11-1 is lacking this information. Similarly, culvert

capacity is not detailed in the Application but is instead deferred to placement in the Final Stormwater Pollution Prevention Plan (SWPPP). In accordance with Stipulation 23(b)(7), this information should be included in the Application. Please revise the application to include all culvert and bridge placement specifications as required.

Response: Although culvert and bridge placement specifications and calculations were not specified in Appendix 11-1: Preliminary Design Drawings, a stream crossing information summary table is now included herein as Attachment K. As is standard practice in Article 10 proceedings, final site-specific stream crossing plans will be developed for each permanent access road-stream crossing which shall be submitted as a compliance filing.

Updated Information

Exhibit 2: Overview and Public Involvement

At the time of Application filing, the Public Involvement Program (PIP) Meeting Log was updated through and including June 14, 2021. Since that time, the log has been updated to reflect recent PIP Plan activities through September 27, 2021 and has been provided herein as Attachment H.

Exhibit 20: Cultural Resources

As previously stated in the Application, a Phase IB archaeological survey was conducted in April and May 2021 to determine whether archaeological sites are located in the areas of proposed ground disturbance for the Project. The Phase IB Archaeological Survey Report was submitted to the Office of Parks, Recreation and Historic Preservation (OPRHP) on June 17, 2021. The Applicant received a finding of no adverse impact on August 18, 2021 which has been included herein as Attachment I.

Exhibit 22: Terrestrial Ecology and Wetlands

Shortly before the June 28, 2021 Application submission, the Applicant conducted a wetland verification site visit with staff of the NYSDEC and the USACE. During this visit, NYSDEC requested that the boundary of wetland W-NSD-10 be extended. TRC conducted a new delineation the following day, adjusting the boundary accordingly. While the Applicant has not yet received a correspondence from the NYSDEC staff on this matter, impact calculations previously provided in the Application have been updated to include the extended boundary of wetland W-NSD-10. Moreover, the USACE during the same visit advised that wetland BTF-11 be extended,

though only slightly. (The USACE did approve that new boundary while in the field.) TRC was also advised during the site visit that delineated features W-BT-3, W-BTF-4 and PW-3 were not truly wetlands, but rather small, isolated puddles that may form after heavy precipitation on the compacted agricultural field, and consequently should be removed from the delineation. Updated maps and shapefiles were provided to the DPS, NYSDEC, and USACE, on July 21, 2021. An updated figure and impact calculations reflecting these changes have been included herein as Attachments M and J, respectively.

Exhibit 23: Water Resources and Aquatic Ecology

Miscommunication or a simple misunderstanding by TRC staff resulted in an error within the June 28, 2021 Application filing. This error was discovered in the preparation of this Supplement to the Application, to be corrected now. Within Exhibit 23,Section 23(b) Surface Water, at subsection 7 (Stream Crossings), paragraph two, it was noted that, “Eight open cut stream crossings are proposed for the installation of culverts for collection lines….” When, in fact, installation of collection lines will not require any culvert installation. Rather, culverts are proposed for stream crossings at eight locations, all for the installation of an access road. At only three of these crossing locations will collection lines be installed. The specifics of both road and collection line installation is further detailed above in this response under Exhibit 23.

As noted above, the Applicant conducted a wetland verification site visit with staff of the NYSDEC and the USACE on May 11 and 12, 2021. At that time, the USACE requested “stream” S-NSD-2 be removed from the delineation, as it was an ephemeral ditch that did not constitute a stream requiring delineation. Updated maps and shapefiles were provided to the DPS, NYSDEC, and USACE, on July 21, 2021. There are no associated impact changes, and thus no impact calculation changes. Regardless, a revised Table 23-3 is included as Attachment L, which reflects this deletion.