

KATHY HOCHUL
GOVERNORHOUTAN MOAVENI
EXECUTIVE DIRECTOR

**Mill Point I Solar Project
Town of Glen, Montgomery County
Permit Application No. 23-00034**

**Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit
August 3, 2023**

Wildlife Site Characterization

In compliance with 19 NYCRR § 900-1.3(g)(2), ConnectGen Montgomery County LLC (Applicant) provided a draft Wildlife Site Characterization Report for the proposed Mill Point I Solar Project, Town of Glen, Montgomery County, New York dated April 2021. This report, together with the avian surveys referenced below, have been provided to the Office of Renewable Energy Siting (the Office or ORES) and the New York State Department of Environmental Conservation (NYSDEC), in connection with the Applicant's pending facility siting application to the ORES permitting process at Executive Law §94-c and 19 NYCRR Part 900.

Avian and Other Wildlife Surveys

The Applicant provided a Breeding Bird Survey Report for the Mill Point Solar Project, dated September 2021; a State-Listed Wintering Grassland Raptor Survey Report 2020-2021 Survey Report for the Mill Point Solar Project, dated May 2021; and a Wintering Grassland Raptor Survey for the Mill Point II Solar Project, dated June 2022. The Applicant completed the associated breeding bird surveys from May 2021 – July 2021. The Applicant completed the associated winter grassland raptor surveys from November 16, 2020 – April 15, 2021 and December 15, 2021 – April 14, 2022.

The Office, in consultation with NYSDEC, has accepted these studies for purposes of the review required by §900-1.3(g)(5).

Determination

Pursuant to §900-1.3(g)(7), the Office, in consultation with the NYSDEC, has completed a review of this information and hereby provides its draft determination regarding whether occupied habitat for one or more New York State (NYS) threatened or endangered species exists within the facility site, the boundary of the occupied habitat, whether de minimis levels as provided in § 900-2.13 might be attainable for grassland birds and, if applicable, the amount of mitigation funding that may be necessary if impacts cannot be avoided or mitigated.

Northern Long-eared Bat

The facility site is not within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site. To avoid and minimize impacts to northern long-eared bat, project construction shall adhere to the Uniform Standards and Conditions (see §900-6.4(o)(4)(iii)(c)).

Indiana Bat

The facility site is not within two and a half (2.5) miles of maternity roost sites nor within 2.5 miles of a hibernaculum or bachelor colonies.

Bald Eagle

There are no known bald eagle nests within the project area or within one-quarter (0.25) mile of the project area.

Grassland Birds

The proposed facility site overlaps with occupied habitat for [REDACTED] ORES in consultation with NYSDEC has determined that the Mill Point I Solar Project is estimated to adversely impact 1051.67 acres of occupied wintering habitat for [REDACTED] and 432.34 acres of occupied wintering habitat for [REDACTED]. The Applicant shall avoid potential significant adverse impact(s) to these habitats to the maximum extent practicable. If the Applicant can demonstrate that full avoidance of potential significant adverse impact(s) to these habitats is not practicable, the Applicant is required to develop and submit a Net Conservation Benefit Plan (NCBP) to minimize or mitigate any remaining potential significant adverse impact(s) to these habitats for the proposed Facility. See 19 NYCRR §§ 900-2.13(d) and (f).

To avoid and minimize impacts to occupied grassland habitat, construction shall also adhere to the Uniform Standards and Conditions (see §§ 900-6.4 (o)(3)(i)-(vii)). To avoid direct impacts to individual listed grassland birds during construction and to mitigate impacts to occupied grassland habitat, the Applicant shall adhere to the Uniform Standards and Conditions (see §§ 900-6.4 (o)(3)(viii) and (ix)). Attachments A and B summarize the areas of potential occupied habitat taken within the proposed facility site and the amount of mitigation potentially required.

Other State-listed Species

The following NYS species of special concern are confirmed to be present within the proposed facility site: [REDACTED]. Pursuant to § 900-2.13(d), the Applicant shall identify and evaluate avoidance and minimization measures to be incorporated in the facility design, as well as any unavoidable potential impacts to these species.

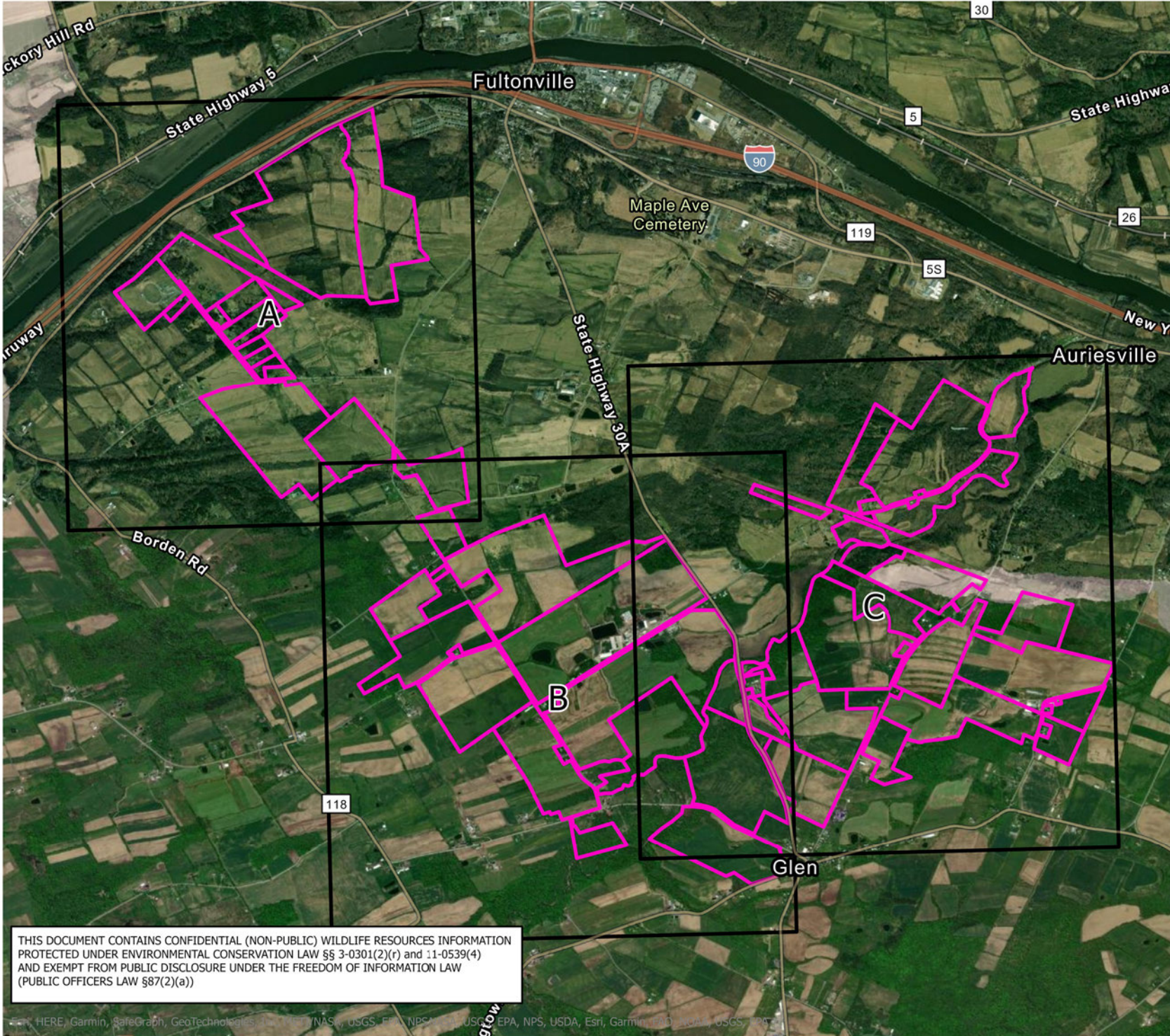
Please note, this Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit is subject to revision if the Facility design and layout is altered from its presentation to the Office as of the date of this letter. In compliance with §900-1.3(g)(8), the Applicant shall provide the Wildlife Site Characterization Report, habitat assessment and/or survey reports, and Net Conservation Benefit Plans as part of Exhibit 12 (§900-2.13) in support of an application to the Office for a major renewable energy facility.

As a reminder, the Applicant must also provide a written explanation of how the Facility design first avoids and then minimizes impacts to the identified NYS threatened or endangered or species of special concern to the maximum extent practicable. Unavoidable adverse impacts shall be summarized by species impacted and include an assessment of the acreage and/or an estimate number of individual members of each such species affected. See 19 NYCRR § 900-2.13(d).

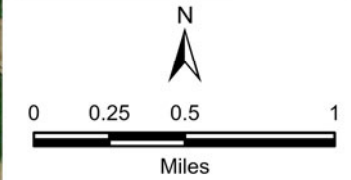
Please note that the basis for the Office's draft determination regarding occupied habitat and potential take for this project only applies to major renewable energy facilities covered by Section 94-c of New York Executive Law. This determination is valid for a period of five years from the date of this letter. This determination may be subject to additional review if changes are made to the anticipated facility plan. Please contact the Office before an application is filed if any such changes are made, or additional pre-application consultation is required.

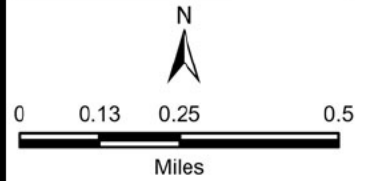
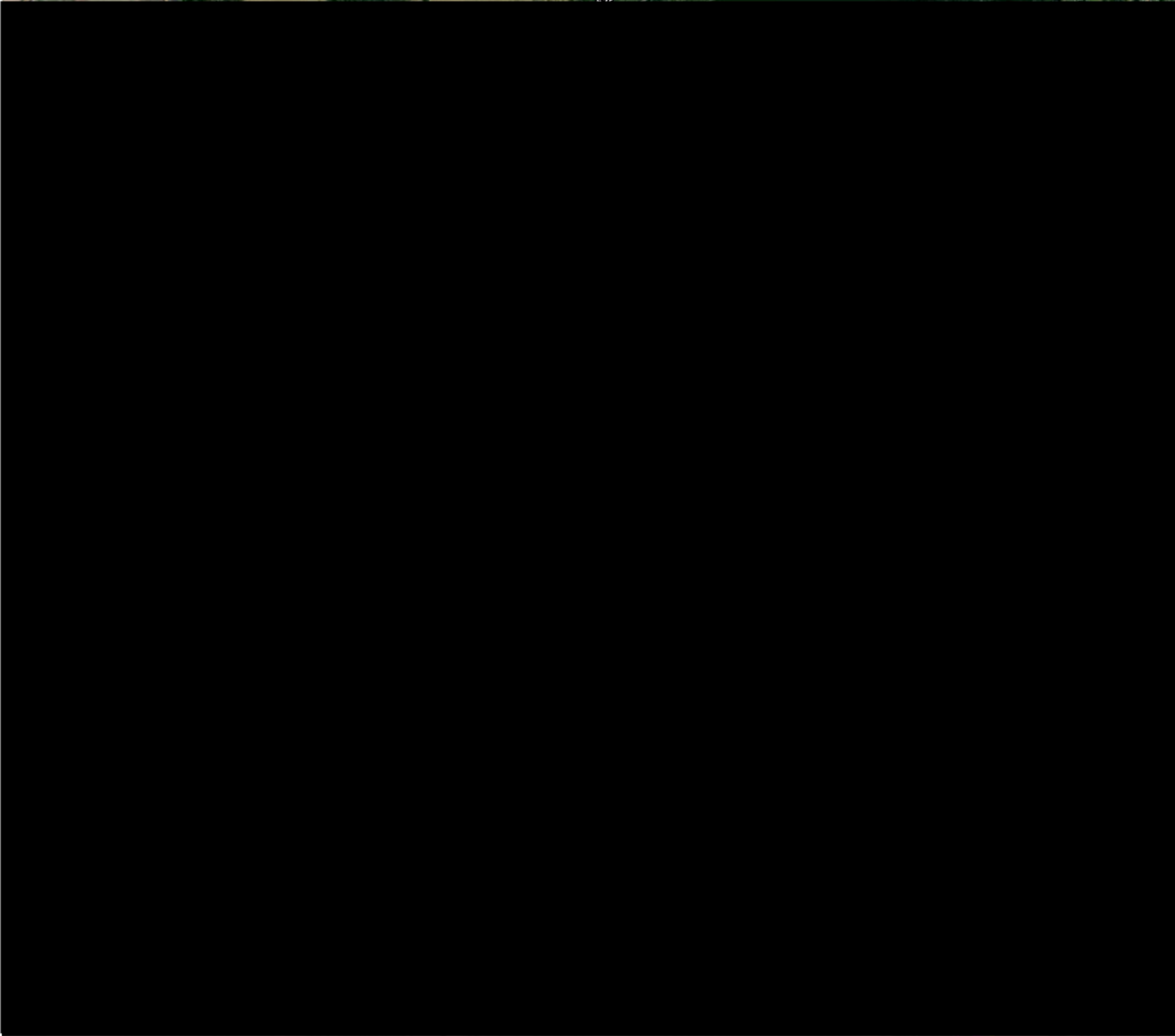
ATTACHMENT A – ORES TAKE DETERMINATION MAP SERIES

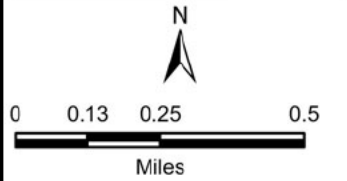
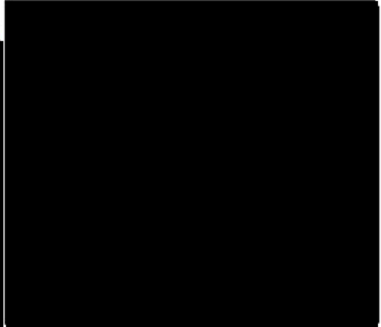
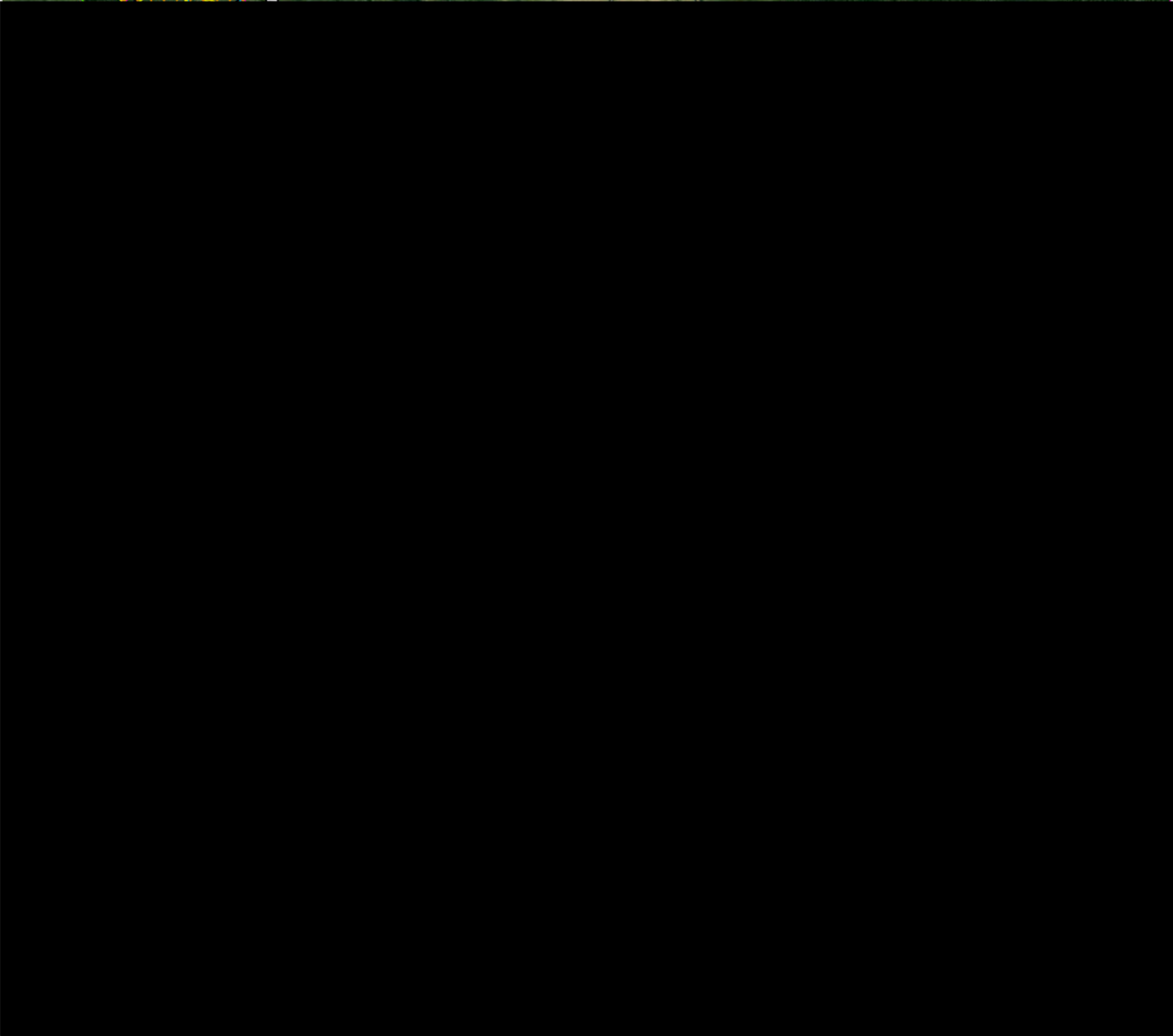
ATTACHMENT B – ORES OCCUPIED HABITAT FIELD BY FIELD ANALYSIS TABLE

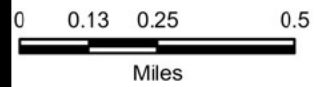
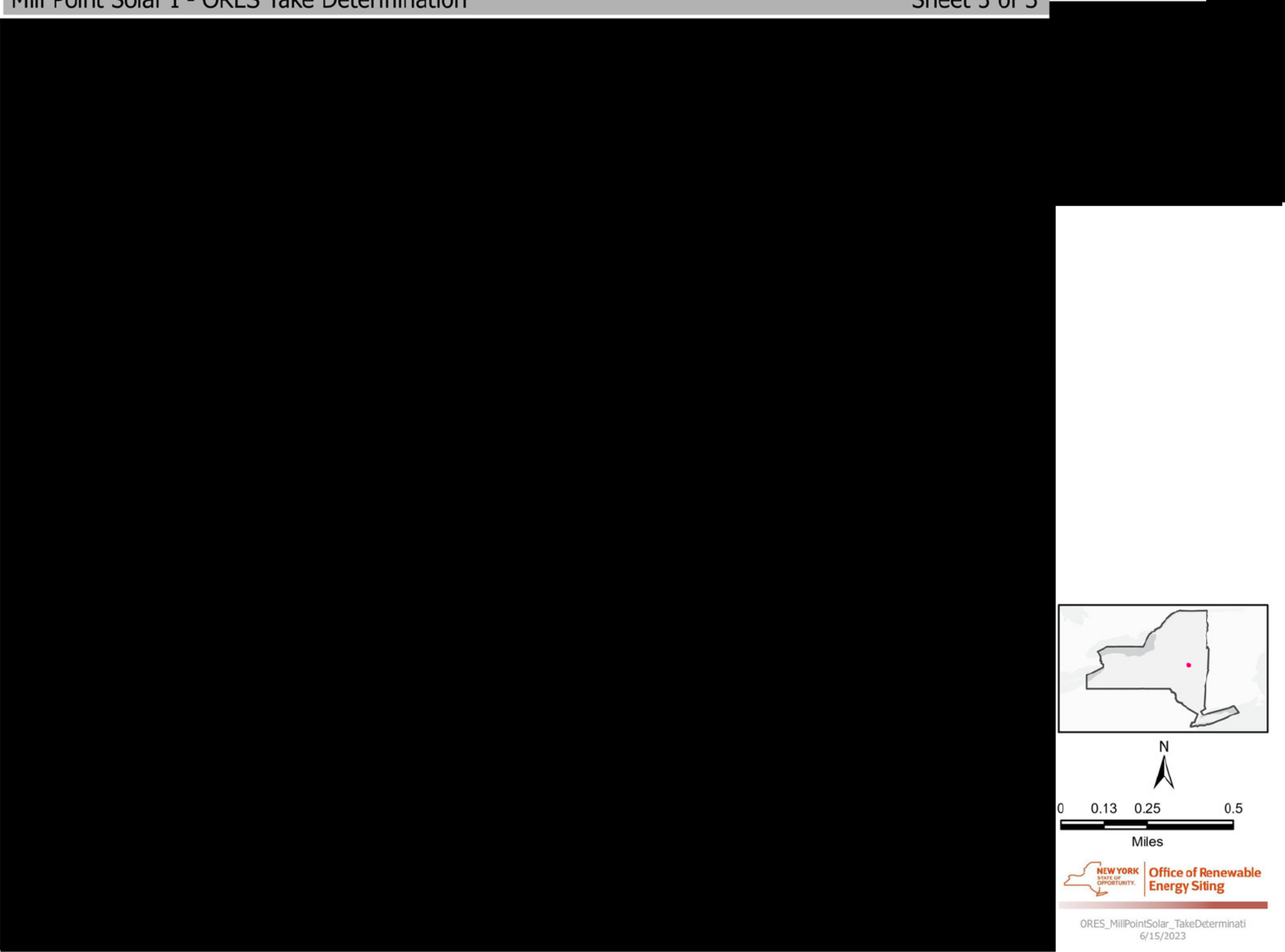


THIS DOCUMENT CONTAINS CONFIDENTIAL (NON-PUBLIC) WILDLIFE RESOURCES INFORMATION PROTECTED UNDER ENVIRONMENTAL CONSERVATION LAW §§ 3-0301(2)(r) and 11-0539(4) AND EXEMPT FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION LAW (PUBLIC OFFICERS LAW §87(2)(a))









| Mill Point Solar I - Field By Field Take Analysis | | | | | | |
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| Applicant Identified | | ORES Take Determination | | | | |
| Field ID | Occupied Habitat Status | Occupied Habitat Status | Occupied Habitat Taken (Acres) | | | ORES Comments & Justification (include survey effort, data summary, habitat notes, etc.) |
| Field ID for open field within Facility Site. Attach figure. | Essential behavior exhibited by ETS within identified field: wintering, breeding, both, or none | | | | | |
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**Office of Renewable
Energy Siting**

KATHY HOCHUL
GOVERNOR

JESSICA F. WALDORF
INTERIM EXECUTIVE DIRECTOR

July 31, 2024

Andrew Barrett
ConnectGen Montgomery County LLC
1001 McKinney Street, Suite 700
Houston, TX 77002
andrew.barrett@repsol.com

RE: Matter No. 23-00034 - NOTICE OF REVISED DETERMINATION OF OCCUPIED HABITAT, INCIDENTAL TAKE AND NET CONSERVATION BENEFIT - Application of ConnectGen Montgomery County LLC for a Siting Permit Pursuant to New York State Executive Law § 94-c for the proposed Mill Point Solar Facility, located in the Town of Glen, Montgomery County, New York (250 MW Solar Facility)

Dear Andrew Barrett:

On August 3, 2023 the Office of Renewable Energy Siting (the Office or ORES) issued its initial Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit (Initial Determination) for the proposed application previously filed in the above-referenced matter. On June 26, 2024 the Applicant submitted a request to the Office for permission to submit an amendment to their application pursuant to 16 NYCRR § 1100-7.1(b) proposing changes to the Facility layout. Subsequently, the Applicant filed a request for a Revised Take Determination on July 22, 2024 and a Notice of Major Amendment on July 23, 2024.

Information provided by the Applicant in the Notice of Major Amendment indicated that the updated Facility design is estimated to adversely impact 1097.61 acres of occupied wintering habitat for northern harrier and 478.28 acres of occupied wintering habitat for short-eared owl. Please find enclosed for filing a Revised Determination of Occupied Habitat, Incidental Take, and Net Conservation Benefit (Revised Determination).

The Revised Determination includes confidential information regarding the locations of habitats of certain species that is protected from disclosure by Environmental Conservation Law § 3-0301(2)(r) and Public Officers Law § 87(a). Accordingly, a confidential version of the Revised Determination is being submitted along with a public-facing version with confidential information redacted.

cc: Service List



KATHY HOCHUL
GOVERNOR

JESSICA F. WALDORF
INTERIM EXECUTIVE DIRECTOR

**Mill Point I Solar Project
Town of Glen, Montgomery County
Permit Application No. 23-00034**

**Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit
Revised July 31, 2024**

Wildlife Site Characterization

In compliance with 16 NYCRR § 1100-1.3(g)(2), ConnectGen Montgomery County LLC (Applicant) provided a draft Wildlife Site Characterization Report for the proposed Mill Point I Solar Project (Facility), in the Town of Glen, Montgomery County, New York dated April 2021. This report, together with the avian surveys referenced below, have been provided to the Office of Renewable Energy Siting (the Office or ORES) and the New York State Department of Environmental Conservation (NYSDEC), in connection with the Applicant's pending Facility siting Application to the ORES permitting process pursuant to Article VIII of the New York State Public Service Law and 16 NYCRR Part 1100.

Permit Application

On February 12, 2024, the Applicant submitted a Permit Application to ORES for this Facility. On June 26, 2024, the Applicant submitted a request to the Office for permission to submit a minor amendment to their application pursuant to 16 NYCRR § 1100-7.1(b), proposing changes to the Facility layout. On July 10, 2024, the Applicant submitted correspondence to the Office in response to comments submitted by the Town of Glen objecting to the Applicant's request to submit a minor amendment. The Applicant agreed to proceed with its proposed amendment as a major amendment in accordance with 16 NYCRR § 1100-7.1(c). On July 22, 2024, the Applicant submitted a request to the Office for a Revised Take Determination. In response, the Office is providing an updated Determination of Occupied Habitat, Incidental Take and Net Conservation as described herein.

Avian and Other Wildlife Surveys

The Applicant provided a Breeding Bird Survey Report dated September 2021, a Wintering Raptor Grassland Survey Report dated May 2021, and a Wintering Raptor Grassland Survey dated June 2022. The Applicant completed the associated breeding bird surveys from May 2021 – July 2021.

The Applicant completed the associated winter grassland raptor surveys from November 16, 2020 – April 15, 2021 and December 15, 2021 – April 14, 2022.

The Office, in consultation with NYSDEC, has accepted these studies for purposes of the review required by 16 NYCRR § 1100-1.3(g)(5).

Determination

Pursuant to 16 NYCRR § 1100-1.3(g)(7), the Office, in consultation with the NYSDEC, has completed a review of this information and hereby provides its revised determination regarding whether occupied habitat for one or more New York State (NYS) threatened or endangered species exists within the facility site, the boundary of the occupied habitat, whether de minimis levels as provided in 16 NYCRR § 1100-2.13 might be attainable for grassland birds and, if applicable, the amount of mitigation funding that may be necessary if impacts cannot be avoided or mitigated.

Northern Long-eared Bat

The facility site is not within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site. To avoid and minimize impacts to northern long-eared bat, project construction shall adhere to the Uniform Standards and Conditions (see 16 NYCRR § 1100-6.4(o)(4)(iii)(c)).

Indiana Bat

The facility site is not within two and a half (2.5) miles of maternity roost sites nor within 2.5 miles of a hibernaculum or bachelor colonies.

Bald Eagle

There are no known bald eagle nests within the project area or within one-quarter (0.25) mile of the project area.

Grassland Birds

On August 3, 2023, the Office issued its initial Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit pursuant to 16 NYCRR § 1100-1.3(g)(7). Based on the Facility design provided by the Applicant during the pre-application process, ORES Staff calculated adverse impacts to 1051.67 acres of occupied wintering habitat for [REDACTED] and 432.34 acres of occupied wintering habitat for [REDACTED].

Information provided by the Applicant in the Notice of Major Amendment filed by the Applicant on July 23, 2024, indicated additional solar panels and rerouting of an access road within **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION**. The Office has determined that the updated Facility design is estimated to adversely impact 1097.61 acres of occupied wintering habitat for [REDACTED].

and 478.28 acres of occupied wintering habitat for [REDACTED]. Therefore, the Applicant is required to develop and submit a Net Conservation Benefit Plan (NCBP) for the proposed Facility to minimize or mitigate the significant adverse impact(s) to these habitats as described above. See 16 NYCRR § 1100-2.13(d) and (f).

To avoid and minimize impacts to occupied grassland habitat, construction shall also adhere to the Uniform Standards and Conditions (see 16 NYCRR §§ 1100-6.4 (o)(3)(i)-(vii)). To avoid direct impacts to individual listed grassland birds during construction and to mitigate impacts to occupied grassland habitat, the Applicant shall adhere to the Uniform Standards and Conditions (see 16 NYCRR §§ 1100-6.4 (o)(3)(viii) and (ix)). Attachments A and B summarize the areas of potential occupied habitat taken within the proposed facility site and the amount of mitigation potentially required.

Other State-listed Species

The following NYS species of special concern are confirmed to be present within the proposed facility site: [REDACTED]. Pursuant to 16 NYCRR § 1100-2.13(d), the Applicant shall identify and evaluate avoidance and minimization measures to be incorporated in the facility design, as well as any unavoidable potential impacts to these species.





Please note, this Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit is subject to revision if the Facility design and layout is altered from its presentation to the Office as of the date of this letter.

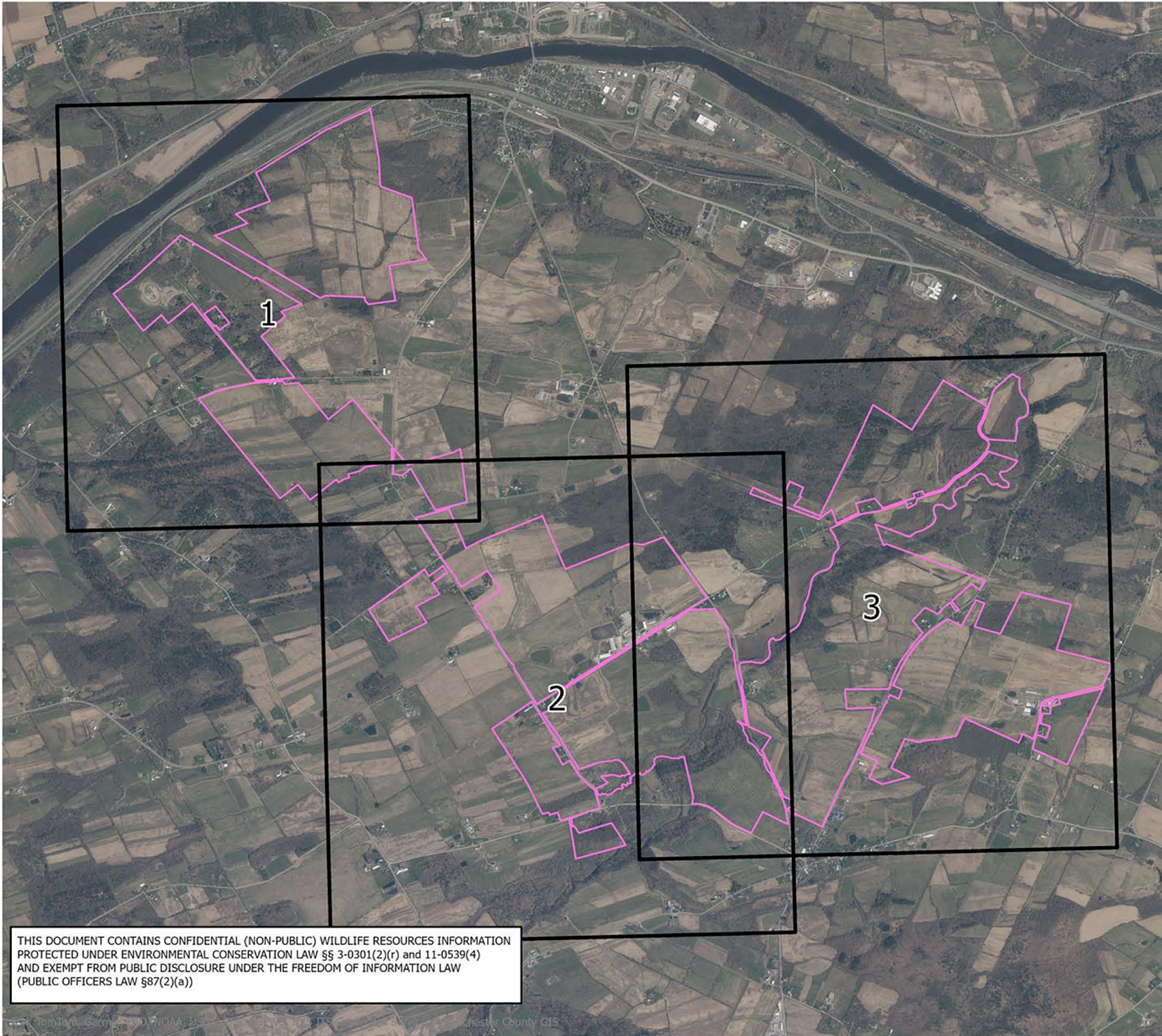
Please note that the basis for the Office’s draft determination regarding occupied habitat and potential take only applies to this Facility. This determination is valid for a period of five years from the date of this letter. This determination may be subject to additional review if changes are made to the Facility design. Please contact the Office if any such changes are proposed.

ATTACHMENT A – ORES TAKE DETERMINATION MAP

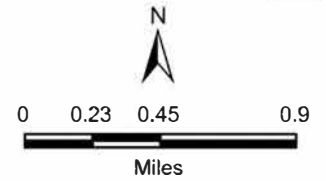
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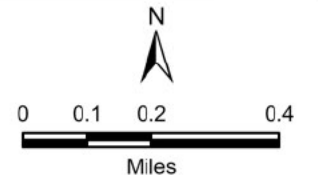
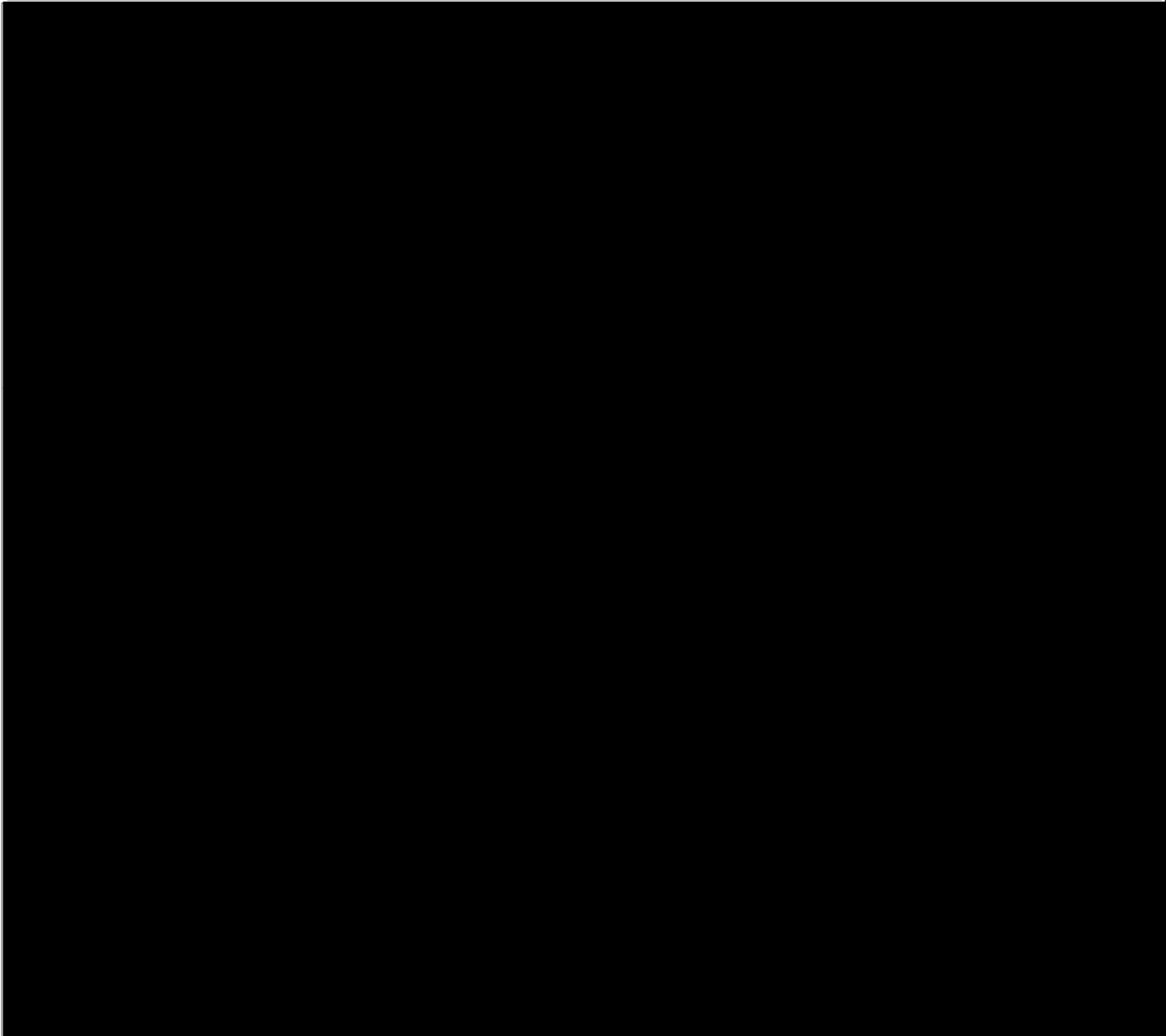
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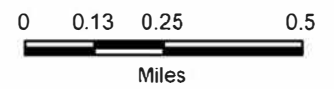
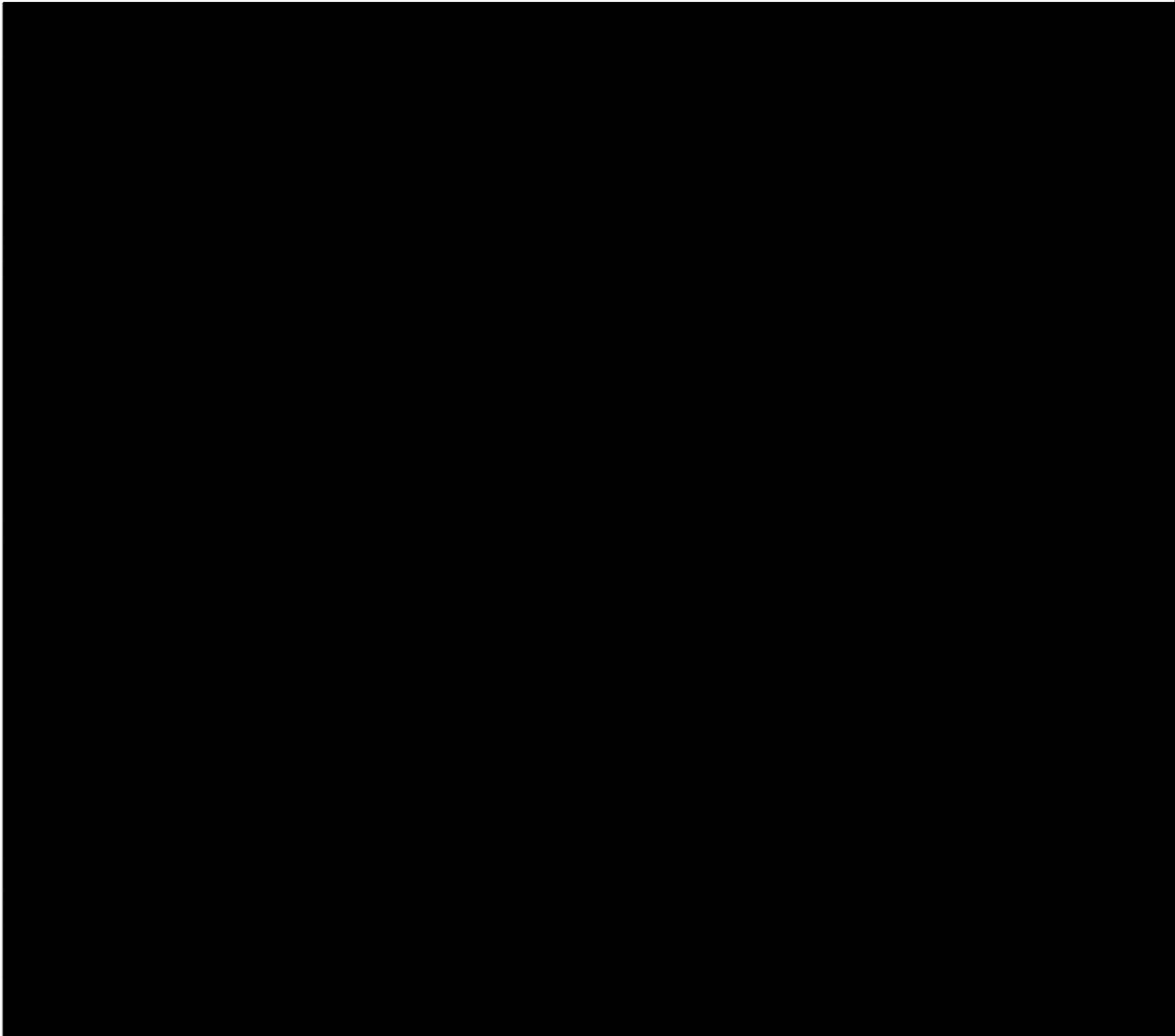
-  Map Series Frame
-  Facility Site

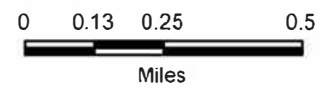
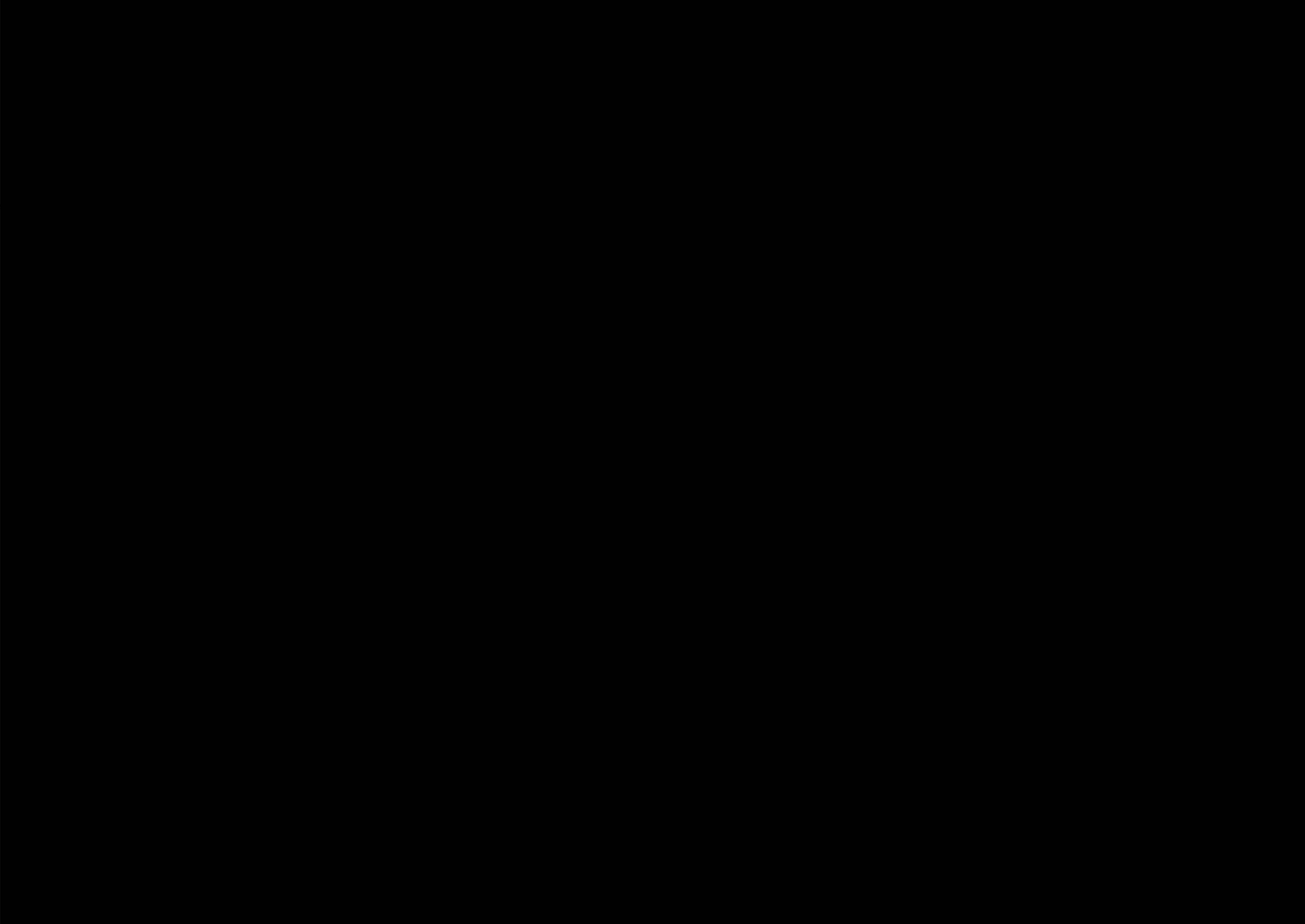
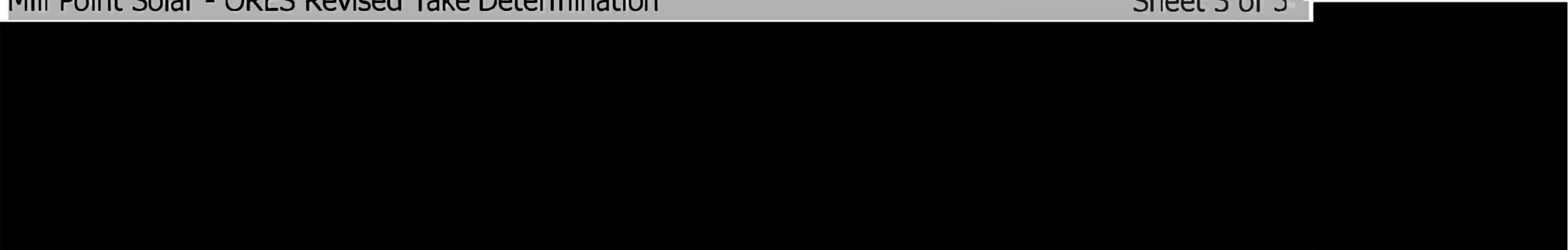


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Permit Application No. 23-00034

Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit

ATTACHMENT B – ORES OCCUPIED HABITAT FIELD BY FIELD ANALYSIS TABLE

| Mill Point Solar I - Field By Field Take Analysis | | | | | | |
|--|---|-------------------------|--------------------------------|---|---|--|
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