

# **Heritage Wind Project**

**Case No. 16-F-0546**

## **Article 10 to Section 94-c Transition Supplement Overview**

## TABLE OF CONTENTS

(1)	Introduction .....	2
(2)	Facility Description .....	3
(3)	Public Involvement .....	3
(4)	Proposed Uniform Standards and Conditions .....	4
(5)	Additional Information .....	4
	Exhibit 5: Design Drawings .....	5
	Exhibit 7: Noise and Vibration .....	7
	Exhibit 8: Visual Impacts .....	8
	Exhibit 12: NYS Threatened or Endangered Species .....	8
	Exhibit 14: Wetlands .....	10
	Exhibit 15: Agricultural Resources .....	12
	Exhibit 23: Site Restoration and Decommissioning.....	12

## LIST OF TABLES

Table 1. Setback Requirements.....	5
Table 2. Wind Turbine Suitability .....	7
Table 3. Section 94-c Wetland Impact Table .....	10

## LIST OF APPENDICES

Appendix A	Public Outreach Meeting Log
Appendix B	Comparison of Article 10 Application to Section 94-c Requirements
Appendix C	Setback Figures
Appendix D	Updated Sound Information
Appendix E	Conceptual Planting Plan
Appendix F	Lighting Plan
Appendix G	Updated Net Conservation Benefit Plan
Appendix H	Supplemental Agricultural Information
Appendix I	Decommissioning Plan

## (1) Introduction

On March 13, 2020, Heritage Wind, LLC (“Heritage Wind” or “Applicant”) submitted an Application (“Application”) under Article 10 of the Public Service Law (“Article 10”) to construct and operate an approximately 184.8-megawatt wind powered electric generating facility in the Town of Barre, Orleans County, New York (“the Facility”). On September 4, 2020, the Applicant submitted a supplemental application (“Application Supplement”) that addresses two primary items:

1. Responses to deficiencies in the Application identified by the Siting Board Chair in a letter dated May 12, 2020.
2. Summary of minor changes to the Facility layout associated with a relocation of the proposed laydown area. This minor change was fully evaluated in the Application Supplement to demonstrate no impacts to resource areas (e.g., wetlands, cultural, etc.).

Upon completing its review of the Application Supplement, the Application was deemed to be compliant with Article 10 requirements by the Siting Board Chair on December 8, 2020.

On January 4, 2021, the Applicant filed a Notice of Intent to Transfer its application to transition the permitting process for the Facility from Article 10 to Executive Law Section 94-c (“Section 94-c”). This Section 94-c Transition Supplement Overview (“Transition Overview”) provides the additional information needed for the Office of Renewable Energy Siting (“ORES”) to make the findings and determinations required by law. While the majority of the information required by the Section 94-c draft regulations was provided in the Article 10 Application, Section (5), below, provides additional information that is requested under the Section 94-c draft regulations but not addressed in the Application or the Application Supplement. Generally, Section 94-c considers Applications determined to be complete by the Siting Board—as Heritage’s was—to be complete for purposes of review under Section 94-c. The Applicant provides this additional information to facilitate ORES’s review and to aid in development of a proposed permit for the Heritage Wind Project under Section 94-c.

### The Transition Overview:

- Describes the Facility and the documents filed to date under Article 10,
- Describes the actions taken by the Applicant to provide information on the Facility and the permitting processes to the public,
- Describes the Applicant compliance with Section 94-c uniform standards and conditions and compliance with the anticipated draft permit containing such conditions, and

- Provides additional information to facilitate ORES review of the Facility.

## (2) Facility Description

The Facility description below reflects the design and layout presented in the Application submitted March 13, 2020 and the Application Supplement submitted September 4, 2020:

- Turbines: The Facility as proposed has 33 turbines, to be located in the Town of Barre. The tallest heights for the turbine models assessed in the Application is 675 feet.
- Access roads: Twelve miles of Facility access roads are proposed. Temporary access roads are proposed to be gravel surfaced and 60 feet wide to accommodate construction/delivery vehicles. These temporary roads are proposed to be restored for use as permanent access roads, which would be gravel-surfaced and typically 16 feet wide.
- Collection lines: The Facility is proposed to include approximately 36 miles of collection lines to deliver power from the wind turbines to the collection substation.
- Collection and POI substations: The collection substation will “step up” power to 115 kilovolts (kV), and the point of interconnection (POI) substation will interconnect with national Grid’s existing Lockport-Mortimer 115 kV transmission line.
- Meteorological towers: Two permanent met towers are proposed to be installed to collect meteorological data and support performance testing of the Facility.
- O&M facility: The proposed O&M facility is proposed to be located on a 5-acre site and will consist of two buildings totaling approximately 4,000 square feet.
- Temporary laydown yard/staging area/temporary batch plant: A temporary construction laydown yard of approximately 13 acres is proposed to be established to accommodate construction trailers, storage containers, large Project components, a temporary concrete batch plant (if needed), and parking for construction workers.

## (3) Public Involvement

Since the submittal of the Article 10 Application in March 2020, the Applicant has conducted several public outreach events and attended meetings to inform the public about the project and provide permitting updates. The Applicant held a virtual open house to provide opportunity for the public to learn about the Project and ask questions. The virtual meeting was noticed in accordance with Heritage’s prior public notices and made available on the project website ([www.heritagewindpower.com/openhouse](http://www.heritagewindpower.com/openhouse)) on May 4, 2020. The site remained live for comments and questions through June 4, 2020 and remains available for viewing until May 4, 2021.

The Applicant also attended monthly Town of Barre Board meetings in order to be available to discuss the proposed Project with the public or elected officials. In addition, the Applicant encouraged members of the public or stakeholders to visit the Heritage local office to ask questions or discuss Project updates.

A virtual public information meeting was held on December 10, 2020 to provide information specific to the transition from the Article 10 permitting process to Section 94-c. Mailings were sent to all residents in the Town of Barre and local stakeholders to notify the public of the meeting and provide details on how to register. Prior notice of the meeting was also published in the following local newspapers: Batavia Daily, Penny Saver, and Orleans Hub. At the meeting, the Applicant provided an overview of the Section 94-c process and answered written questions regarding the permitting process, submitted by those who attended the virtual meeting. A detailed table of the meetings and public outreach that the Applicant has conducted since the submittal of the Application is included as Appendix A.

Lastly, notices related to this transition from Article 10 to Section 94-c were published, mailed and circulated in accordance with the draft Section 94-c regulations at §900-1.6. Proofs of publication and service related thereto are appended to the cover materials submitting the Heritage Wind transition documents.

#### (4) Proposed Uniform Standards and Conditions

With minor exceptions, the Applicant wishes to be subject to the uniform standard and conditions set forth in 19 NYCRR §900-6. As discussed herein, the Applicant has proposed to comply with setbacks which are more restrictive than those set forth in the draft uniform standards and conditions to comply with the substantive setback requirements of the Town of Barre Town Code as currently enacted and proposed to be amended.

#### (5) Additional Information

The Applicant reviewed the requirements of Section 94-c and compared those requirements to the information provided in the Application and the Application Supplement. A matrix detailing each Section 94-c requirement and its corresponding location in the Application is included as Appendix C. In some instances, the Section 94-c regulations require information beyond what was required by Article 10. The Applicant has prepared additional information to help facilitate ORES' review of the Facility. See below for additional information. Throughout this section, citations to sections of the Section 94-c regulations refer to the draft regulations released by ORES for public comment.

## Exhibit 5: Design Drawings

Requirements of Exhibit 5 of Section 94-c were largely satisfied by Exhibits 6 and 11 and Appendix 11-A of the Application and Application Supplement. However, the Applicant has prepared additional information to supplement the Application and Application Supplement.

Since the submittal of the Application and the Application Supplement, the Applicant has decided to no longer include the Nordex N149-4.8 and GE 158-5.5 turbine models as potential turbine options for the Facility. The Vestas 162-5.6 turbine model remains an option for the Facility. The Applicant may also use a similar turbine model. The Applicant will meet any conditions included in the final permit related to impacts from the selected turbine model.

The setback requirements established in proposed 19 NYCRR 900-2.6(b) are different than those provided in the Application. Further, as of the time of this submission, the Town of Barre has proposed but has not yet adopted a local law governing wind projects which includes proposed setbacks different from those currently in place in the Town of Barre. Setback distances defined by Section 94-c, current and proposed setbacks set by in the Town of Barre Zoning Ordinance, proposed setbacks being considered for adoption by the Barre Town Board, and the Applicant's proposed setbacks, are provided in Table 1, below. The setbacks in the table are based on a turbine tip height of 675 feet (the tallest turbine model under consideration for the Facility). Figure 06-1 from the Applicant has been updated to reflect the setbacks detailed in Table 1. Figure 06-1 and detailed depictions of the setbacks for each turbine location are included in Appendix C.

Based on the turbine layout presented in the Application, the Facility is in compliance with all of the setbacks required and proposed by the Town of Barre, and with the setbacks required by Section 94-c, except for the substation setback. Based on the polygon, the POI Substation The area that is proposed for the POI Substation is located approximately 900 feet from the nearest turbine. However, the area is approximately 15 acres and the actual POI will be substantially smaller. The Applicant will site the POI within the POI area identified in the Application to ensure that the final POI substation location meets the setbacks outlined in Table 1, below.

**Table 1. Setback Requirements**

Structure Type	Wind Turbine Setback (feet)			
	Section 94-c	Town of Barre (current) <sup>1</sup>	Town of Barre (proposed) <sup>1,2</sup>	Applicant
Substation	1,013	-	-	1.5x Tip Height (1,013)
Any Above-ground Bulk Electric System	1,013	1,013	-	1.5x Tip Height (1,013)
Gas Wells	1.1x Tip Height (743)	-	-	1.1x Tip Height (743)

Structure Type	Wind Turbine Setback (feet)			
	Section 94-c	Town of Barre (current) <sup>1</sup>	Town of Barre (proposed) <sup>1,2</sup>	Applicant
Public Roads	1.1x Tip Height (743)	1,013	1,013	1.5x Tip Height (1,013)
Non-Participating Property Lines	1.1x Tip Height (743)	1,013	1,013	1.5x Tip Height (1,013)
Non-participating, Non-residential Structures <sup>4</sup>	1.5x Tip Height (1,013)	1,000 <sup>3</sup>	2x Tip Height (1,350) <sup>3</sup>	2x Tip Height (1,350)
Non-participating Residences	2x Tip Height (1,350)	1,000	2x Tip Height (1,350)	2x Tip Height (1,350)

<sup>1</sup>According to § 305-104 of the Town of Barre Zoning Ordinance, the setback distances and noise limits defined in the ordinance are waived by operation of law upon the Applicant obtaining written consent from affected property owners. These waivers are automatic, and no additional approvals are required from the Town to effectuate them. Therefore, the setbacks are applicable only to non-participants who have not executed an agreement with the Applicant to waive the setback.

<sup>2</sup>The Town of Barre has proposed new setback distances in a proposed local law that has been under consideration since mid-2020. At the time of this writing, the Town has not voted on this proposed law. However, the Town's proposed setbacks are included here for informational purposes. At such time as the Town adopts the proposed law, Heritage Wind will update ORES accordingly.

<sup>3</sup>Only as applied to "commercial" structures.

<sup>4</sup>This setback applies to occupied structures, not to outbuildings or structures such as fences which are not fit for human habitation.

Under proposed section 900-2.6(f)(2)(iii) of the ORES regulations, Applicants are required to provide information on proposed aggregate type and thickness associated with access roads. This information was included in Appendix 21-B of the Application, and as such, no additional information is provided in this Transition Overview.

While site suitability reports from the original equipment manufacturer are not included with the Application (per Section 900-2.6(f)(3)), the Applicant has determined that the wind turbine models presented in the Application are compatible with existing site-specific conditions. Two 60-meter tall meteorological towers were installed in the Town of Barre in April 2017 and July 2018. An additional 80-meter tall meteorological tower was installed in the Town of Barre in July 2018. The meteorological towers were erected to generate the site-specific data necessary for modeling purposes and validation of the wind resource. Wind resource analyses were performed to optimize the turbine layout for maximum energy production within the context of the existing, site-specific constraints and support the estimated capacity factor for the Facility.

The wind turbines proposed for the Facility are rated to withstand wind speeds above those likely to occur in the Facility Site. International standards for wind turbines are developed by working groups of Technical Committee-88 of the IEC, a world-recognized body for standards development. All turbines under consideration for the Facility are designed to meet the standards of the IEC-61400 series and are rated for specific IEC wind classes. Table 2 lists the wind classes associated with the Vestas turbine model under consideration for the Facility. The turbines under consideration are suitable for use in conditions typical of the Facility Site.

**Table 2. Wind Turbine Suitability**

Turbine Model	Wind Turbine Class <sup>1</sup>	Average Wind Speed (m/s) at Hub Height	Site-Specific Average Wind Speed (m/s) at Hub Height	Extreme 50-year Wind Speed (m/s)	Site-Specific Extreme 50-year Wind Speed (m/s)	Turbulence Intensity Class <sup>2</sup>	Site-Specific Turbulence Intensity
Vestas 162-5.6	IEC S	8.5	7.0	37.5	28.0	11%	13%

<sup>1</sup> There are five wind turbine classes recognized by the IEC. Wind speed at hub height averages 10 meters per second (m/s) for Class I, 8.5 m/s for Class II, 7.5 m/s for Class III, 6 m/s for Class IV, and is user defined for Class S.

<sup>2</sup> Turbulence intensity is a measure of the variability in wind speed (i.e., the standard deviation of the wind speed within a period divided by the average wind speed over that same period) that a turbine is designed to withstand. Turbulence intensity is measured at 15 meters per second and three classes are recognized by the IEC. Mean turbulence intensity at 15 m/s is > 14% for Class A, 12% - 14% for Class B, and < 12% for Class C, and is user defined for Class S.

**Exhibit 7: Noise and Vibration**

Requirements of Exhibit 7 of Section 94-c were largely satisfied by Exhibit 19 and Appendix 19-A of the Application. At this time, the manufacturer information on the Noise Reduction Operations (NRO) is not available for the GE 158-5.5 turbine. Since the Applicant cannot demonstrate that the design uses half of the maximum NRO, as required by Section 900-2.8(o)(1)(i), the Applicant will no longer consider the GE158-5.5 turbine as a potential turbine model for the Facility. Figure 9-2 of the Pre-Construction Noise Impact Assessment (PNIA) that was included as Appendix 19-A to the Application depicted the Leq (8-hour) sound contour levels associated with the GE 158-5.5 turbine, as that turbine model presented the worst-case scenario for sound impacts. Since the GE 158-5.5 turbine is no longer under consideration for the Facility, Figure 9-2 of the PNIA has been updated to depict the sound contour levels associated with the Vestas 162-5.6 turbine model, which now represents a worst-case scenario. These figures (Figure 9-2Revised) are included with this submittal in Appendix D. This set of figures demonstrates compliance with Section 900-2.8(b)(1)(vi) “A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average nighttime sound level from the facility across any portion of a non- participating property...”. As this figure clearly demonstrates, the 55 dBA contour line is far from any non-participating property line. Therefore, sound levels at any point along said property lines must be well below 55 dBA Leq (8-hour). Updated worst-case tabular sound level results of the facility using the Vestas V162-5.6 are found in Tables 7-1 to 7-6 in Appendix D.

The location of the collection substation has changed slightly since the PNIA was filed. Therefore, a new substation-only sound level model run was made for the collection substation. The same sound power level data for the transformer were used as in the PNIA (103.4 dBA). At this stage of permitting, one-third octave band data are not available to determine if the transformer is tonal or not. In accordance with Section 900-2.8(e)(2), the transformer is assumed to be tonal for purposes of this evaluation, and thus the broadband (dBA) sound level at any non-participating residence was increased by 5 dBA for evaluation with the design goal of 40 dBA Leq (1-hour) from the collection substation equipment (Section 900-2.8(b)(1)(v)).

Detailed tabular results for the substation are provided in Tables 7-7 and 7-8 in Appendix D and Figure 7-1 (also found in Appendix D) presents sound contour drawings out to 30 dBA around the substation. The results of this analysis show that all but two non-participating residences will meet the 40 dBA standard. Two “other” non-participating receptors are over 40 dBA (ID #1650 and #817) but neither one is a residence, and therefore are not required to meet the 40 dBA design goal. Receptor ID #1650 is a barn/shed and receptor #817 is a garage. Compliance with the standard at the two residences over 40 dBA will be demonstrated either by using quieter equipment (or equipment which does not have a tone), by shifting the transformer further away from the receptors, executing additional good neighbor agreements, or by installing a mitigation measure (such as a sound wall). This will be documented in the final computer noise modeling as part of the compliance filing.

### **Exhibit 8: Visual Impacts**

Requirements of Exhibit 8 of Section 94-c were largely satisfied by Exhibits 15 and 24 and Appendices 15-A and 24-A of the Application. However, the Section 94-c requirements regarding visual impact mitigation include additional obligations than what was required for the Article 10 Application. Therefore, the Applicant prepared additional landscaping plans to address these requirements. Specifically, the Applicant developed a Conceptual Planting Plan and Conceptual Lighting Plans for the collection substation and the O&M facility. The Conceptual Planting Plan is attached to this Transition Overview as Appendix E and includes proposed plant material to the south of the collection substations and the O&M building to screen the visibility at nearby residences. The Conceptual Lighting Plans for the collection substation and O&M facility include lighting specifications and illuminations levels resulting from the proposed lighting arrangements and are attached to this Transition Overview as Appendix F.

### **Exhibit 12: NYS Threatened or Endangered Species**

Requirements of Exhibit 12 of Section 94-c were largely satisfied by Exhibit 22 of the Application. Based on the proposed uniform standards and conditions, consultations with the New York State Department of Environmental Conservation (NYSDEC), and finalization of mitigation plans to address potential impacts to NLEB, the Applicant has updated the Net Conservation Benefit Plan (NCBP) that was submitted with the Application (Appendix G). The NCBP was updated to describe the currently proposed curtailment schedule and minimization measures, as well as the proposed mitigation project that will be implemented to achieve a net conservation benefit for the northern long-eared bat (NLEB).

In addition, new sections were added to the NCBP to describe impact avoidance and minimization measures for bald eagle, as well as proposed mitigation in the event of take during Facility operation consistent with the proposed uniform standards and conditions for wind projects. Though the NYSDEC has not made a formal jurisdictional determination with respect to the Facility’s potential for bald eagle take from the Facility, pre-Application consultations with the

NYSDEC have suggested a method for assessing potential risk of bald eagle take for this Facility that is based on the proximity of eagle nests identified during pre-construction surveys and through consultation with the NYSDEC and the U.S. Fish and Wildlife Service (USFWS). It is the Applicant's understanding that this methodology is based on use of the half ( $\frac{1}{2}$ ) mean inter-nest distance (MID) method to delineate territories and identify breeding eagles that may be at risk of mortality or disturbance. The eagle MID is defined as the mean nearest-neighbor distance between simultaneously occupied eagle nests within a project area that may include up to a 10-mile perimeter surrounding the project footprint (ECPG, 2013). The  $\frac{1}{2}$  MID is calculated by measuring the distance between active eagle nests within a project area, adding the distances together, dividing that number by the number of nests, and dividing that number by two. According to the USFWS Eagle Conservation Plan Guidance (ECPG), nests located within this distance relative to the project may be subject to disturbance. However, it is important to note that this calculation does not factor in any actual observable eagle use of the project area and relies solely on the MID. In addition, this methodology does not consider more recent guidance from the USFWS, which states that "eagle nest surveys out to 2 miles from the boundary of the area associated with an incidental take permit will provide sufficient information to evaluate project impacts to nearby nesting eagles (in conjunction with eagle exposure information from within the project footprint)." Therefore, current guidance indicates that the USFWS deems a distance of 2 miles from an eagle nest sufficiently protective, and without high exposure, the risk to nesting eagles is not considered high. This guidance supersedes the recommendations in the USFWS's 2013 guidance, and the Applicant has considered the updated guidance in evaluating risk to bald eagles. As noted in an Avian Risk Assessment prepared for the Facility (Kerlinger, 2019), bald eagles do not nest within the Facility Area or within approximately 2 miles of turbine locations. This, along with the other factors detailed in the Avian Risk Assessment (e.g., very low to low use of the Facility Area by bald eagles based on pre-construction survey data; the small numbers of bald eagle wind turbine collision fatalities over the past 20 years; the rapid and concurrent increase in both the number of turbines and the numbers of nesting, migrating, and wintering bald eagles in New York), supports the conclusion that risk to bald eagles at the Facility is likely to be very low to near zero.

Based on the results of pre-construction surveys, the Avian Risk Assessment that was prepared for the Facility, and the most recent guidance from the USFWS. The Facility has been sited away from known bald eagle nests, roosting concentration areas, and major open water bodies, and no such nests or roosting concentration areas are located nearer than approximately 2 miles from Facility components. Though Facility-related bald eagle take is not anticipated, if at any time during the operation of the Facility a bald eagle is injured or killed due to collision with Facility components, the Applicant will conform to the uniform standards and conditions and either make a payment into the Endangered and Threatened Species Mitigation Bank Fund or implement an agreed upon mitigation project. The NCBP has been updated to reflect this mitigation strategy (Appendix G).

## Exhibit 14: Wetlands

Requirements under Exhibit 14 of Section 94-c were largely satisfied by Exhibits 22 and 23, Appendices 22-J and 22-K and the associated figures of the Application. The Application included a comprehensive analysis of the wetland impacts anticipated as a result of Facility construction and operation. However, the Section 94-c requirements regarding wetland mitigation are more detailed than what was required under Article 10. Table 3, below, provides an updated wetland impact analysis to reflect the mitigation requirements as prescribed in the Section 900-2.15(g)(2).

**Table 3. Section 94-c Wetland Impact Table**

Feature/Activity	Class I		Class II		Class III & IV Unmapped >12.4 acres	
	FWW	AA	FWW	AA	FWW	AA
<b>Major Activities</b>						
Wind Turbines	--	0.29**	--	0.88*	--	0.09
Solar Panels	--	--	--	--	--	--
Energy Storage	--	--	--	--	--	--
Access Roads	<0.01	--	--	0.07*	0.17	0.81
Power Interconnections (including clearing for interconnections)	--	--	--	--	--	--
Clearing of Forest	--	0.18**	1.03	--	0.70	--
Other activities and structures integral to the project involving placement of fill	--	--	--	--	--	--
<b>Intermediate Activities</b>						
Security fence	--	--	--	--	--	--
Clearing and manipulation of undisturbed herbaceous vegetation	--	--	--	--	--	--
Other activities integral to the project involving grading	--	--	--	--	--	--
<b>Minor Activities</b>						
Grading and manipulation of disturbed areas (active hay/row crops, existing commercial/industrial development)	--	--	--	--	--	--
Selective cutting of trees and shrubs	--	--	--	--	--	--
*No enhancements or mitigation required with 75 foot or more setback						
**75-foot setback from wetland boundary required in undisturbed adjacent areas						

The Applicant is in the process of developing a wetland mitigation plan for proposed unavoidable impacts to regulated wetland resources. As there is not an existing wetland mitigation bank within the same HUC 8 Watershed within which the Facility is located, the Applicant is proposing on-site wetland mitigation based on the mitigation categories and

ratios outlined in Section 900-2.15(g)(2). Based on the Table 3, and the prescribed mitigation ratios in Section 900.2.15(g)(2)(i), the Applicant anticipates mitigation to required:

- 0.03 acre of wetland creation as a result of 0.01 acre of impact to Class I freshwater wetlands (FWW) due to access road installation. Per the prescribed wetland mitigation ratios, this would require a 3:1 mitigation by area of impact (category A[M1]),
- 0.17 acre of wetland creation, restoration, or enhancement as a result of 0.17 acre of impacts to Class III and IV or unmapped wetlands > 12.4 acres from access road installation. Per the prescribed wetland mitigation ratios, this would require 1:1 mitigation by area of impact (category A[M3]).
- 2.06 acres of wetland creation, restoration, and enhancement as a result of 1.03 acres of impact to Class II FWW as a result of forest clearing activities. Per the prescribed wetland mitigation ratios, this would require 2:1 mitigation by area of impact (category A[M2]).
- 0.70 acre of wetland creation, restoration, and enhancement as a result of 0.70 acre of impact to Class III and IV or unmapped wetlands > 12.4 acres from forest clearing activities. Per the prescribed wetland mitigation ratios, this would require 1:1 mitigation by area of impact (category A[M3]).
- 0.47 acres of adjacent area creation, restoration, or enhancement as a result of 0.47 acres of impact to Class I and Class IV (or unmapped wetlands > 12.4 acres) wetland adjacent areas from the installation of wind turbines and clearing of forest. Per the prescribed wetland mitigation ratios, this would require 1:1 mitigation by area of impact (impact category A[M3]).
- Enhancements and/or mitigation (e.g., planting of adjacent area, mitigation hydrological changes, etc.) to wetland adjacent areas as a result of impacts to 0.95 acre of impacts to Category II wetland adjacent areas from wind turbine and access road installation. There is no mitigation ratio prescribed in the regulations (impact category A[E]).

The Applicant has identified several potential sites for wetland mitigation. These sites were selected based on desktop review and subsequent field verification site visits by qualified ecological professionals. The Applicant held an on-site jurisdictional determination (JD) site visit with a representative from the NYSDEC on January 11, 2021 to review the wetland delineations presented in the Application and Application Supplement and to review the potential wetland mitigation sites to get feedback on the suitability for wetland mitigation. The NYSDEC representative reviewed and accepted the delineated wetland boundaries. The NYSDEC representative reviewed two potential wetland mitigation sites and thought that either would be feasible options for on-site wetland mitigation. Once a final site has been selected, the Applicant will work with the landowner to develop a Declaration of Restrictive Covenants or Conservation Easement for that area. The Applicant is in the process of developing a conceptual mitigation plan for the site and will consult with the NYSDEC and U.S. Army Corps of Engineers (USACE) prior to finalizing a final mitigation plan.

The Applicant intends to complete all final design work in the third quarter of 2021 to support required compliance filings. As this final design work may result in some minor changes to the wetland impacts proposed in the Application, the Applicant will submit a Request for Water Quality Certification soon after this final design work is completed.

#### **Exhibit 15: Agricultural Resources**

Requirements under Exhibit 15 of Section 94-c were largely satisfied by Exhibit 4, Exhibit 22, and the associated figures of the Application. However, the Section 94-c requirements regarding the impacts to agricultural resources are more detailed than what was required under Article 10. Therefore, the Applicant has prepared additional information regarding the agricultural resources in the vicinity of the Facility and the potential impacts to those resources as a result of Facility construction and operation (Appendix H).

#### **Exhibit 23: Site Restoration and Decommissioning**

Requirements under Exhibit 23 of Section 94-c were largely satisfied by Exhibit 29 and Appendix 29-A of the Application. However, the Applicant has prepared an updated Preliminary Decommissioning Plan (Appendix I) include gross cost estimates that include a 15% contingency cost based on the overall decommissioning and site restoration estimate. A Final Decommissioning Plan will be prepared prior to construction to reflect the final design of the Facility.