



**Environmental Design & Research,**  
Landscape Architecture, Engineering & Environmental Services, D.P.C.

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## memorandum

To: **Carmen O'Keefe, Development** EDR Project No: 16153  
Manager  
From: Lindsay Donohoe, Project Manager  
Samuel Gordon, Senior Project Manager  
Date: 12/11/20  
Reference: Heritage Wind compliance with draft 94(c) Regulations

### Comments:

Heritage Wind (Facility) is a proposed 33 turbine 184.4 MW wind energy generating facility in the Town of Barre, Orleans County, New York proposed by Heritage Wind, LLC (Applicant), a wholly owned subsidiary of Apex Clean Energy Inc. The Facility will be located on leased private land, totaling approximately 5,870 acres, that is primarily rural in nature. The Applicant has prepared and filed an Article 10 application<sup>1</sup> to meet the requirements set forth in stipulations governed by Section 163 of the Public Service Law and Section 1000.5 of the Siting Board's rules (16 NYCRR § 1000.5). On December 8, 2020, the Siting Board determined that the Article 10 Application was compliant with the application content requirements<sup>2</sup>. New York State is currently transitioning away from Article 10 for permitting large-scale renewable energy projects to Section 94-c of the Executive Law, as set forth in the Accelerated Renewable Energy Growth and Community Benefit Act enacted by the New York State Legislature in April 2020. The draft Section 94-c regulations require the preparation of a Siting Permit Application, which must contain numerous Application Exhibits, including Exhibit 15: Agricultural Resources (§900-2.16), which is comparable to, but differs from, the requirements of Article 10 Exhibit 4: Land Use.

This memorandum outlines the draft requirements of Exhibit 15: Agricultural Resources and provides an overview of requirements that were previously addressed in Exhibit 4 of the **Facility's** Article 10 Application; as well as any requirements not previously addressed. Specifically, this memorandum provides a direct reference to the Article 10 Application where the Section 94-c requirements for Exhibit 15 have already been met. Where Section 94-c Exhibit 15 requirements have not previously been addressed, additional information is provided as part of this document.

### Exhibit 15 shall contain:

(a) An assessment within the study area, which shall include the following data sets and illustrations:

(1) Land in NYS Certified Agricultural Districts by tax parcel;

*Provided in Article 10 Application: Exhibit 4; Figure 4-2 (Land Use Programs).*

(2) Land receiving Real Property Agricultural Value Assessment by tax parcel;

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<sup>1</sup> The original Article 10 Application was filed on March 13, 2020, supplemental materials were filed on September 4, 2020.

<sup>2</sup> The Article 10 case record can be accessed through the following:

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=16-f-0546>

*This information was not provided in the Article 10 Application. Figure 1 (Agricultural Value Use Assessment) is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (3) Municipal zoning districts or overlay zones including those designated for renewable energy;

*Provided in Article 10 Application: Exhibit 4; Figure 4-5 (Zoning District).*

- (4) Most recent United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) Cropland Data Layer (CDL), National Landcover Data Base (NLCD) data and/or the results of on-site surveys and mapping identifying plant communities and calculating percentages of agricultural land use compared to non-agricultural land uses (e.g., disturbed, developed, woodland/forested areas, successional non-agricultural areas, wetlands, etc.);

*Provided in Article 10 Application: Exhibit 22; Figure 22-1 (Impact to Plant Communities).*

- (5) Existing energy infrastructure and completed renewable energy facilities;

*Provided in Article 10 Application: Exhibit 4; Figure 4-4 (Tax Parcel). Article 10 Supplement: Figure 3-1 (Proposed Major Electric Generating Facility Location); Figure 13-1 (Real Property Map of Generating Site and Interconnection Facilities).*

- (6) Active agricultural businesses and/or facilities and all related infrastructure.

*Provided in Article 10 Application: Exhibit 4; Figure 4-1 (Existing Land Use); Figure 4-5 (Zoning Districts).*

- (b) Maps showing the following within the study area:

- (1) Field-verified active agriculture land use (including all lands involved in the production of crops, livestock and livestock products for three (3) of the last five (5) years);

*This information was not provided as part of the Exhibit 4: Land Use. This data was obtained through AcreValue<sup>3</sup> and provided as a supplement prepared to address the outstanding requirements of Exhibit 15. See Appendix A, Acre Value Summary Report.*

- (2) Potential construction impacts and the methods available to facilitate farming activity during construction;

*Provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q); Exhibit 9 Section (b)(5).*

- (3) Temporary and/or permanent impacts to agricultural production areas within the proposed facility footprint (including all planned structures, fenced facility areas, etc.), and areas not feasible to continue farming;

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<sup>3</sup> AcreValue ([www.acrevalue.com](http://www.acrevalue.com)) is the leading farmland real estate platform that delivers comprehensive information on the ownership and value of land. Introduced by Granular in April 2015, AcreValue is used by farmers, landowners, investors, bankers, brokers, and industry professionals to analyze the value and productive capacity of farmland and to research and transact more efficiently.

*Analysis provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q); Exhibit 9 Section (b)(5). No figure was provided in the Article 10 Application. Figure 2 (Impact to Agriculture Land) is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (4) All agricultural production acreage proposed to remain in agricultural use;

*Analysis provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q); Exhibit 9 Section (b)(5). Figure 2 (Impact to Agriculture Land) is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (5) Any agreed upon landowner-imposed development restrictions (e.g., locations within the facility site on which the landowner will not allow facility development);

*Figure 2 (Impact to Agriculture Land) includes agreed upon landowner-imposed development restrictions and is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (6) Locations of known or suspected sub-surface drainage systems (including outlets), surface drainages, irrigation lines, or other unique agricultural facilities;

*Analysis provided in Article 10 Application: Exhibit 4, Section (i). Figure 2 (Impact to Agriculture Land) maps drainage systems and is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (7) USDA soil mapping for the facility site; and

*Provided in Article 10 Application: Figure 21-2 (Soil Types).*

- (8) NYS Agricultural Land Classification Mineral Soil Groups 1 through 10 for impacted agricultural areas within the facility site.

*Figure 3 (Mineral Soil Groups) is provided as a supplement prepared to address the outstanding requirements of Exhibit 15.*

- (c) An Agricultural Plan, consistent with the New York State Department of Agriculture and Markets Guidelines (see sections 900-15.1(m)(1)(i) and (ii) of this Part) to the maximum extent practicable, to avoid, minimize, and mitigate agricultural impacts to active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4.

*Figure 3 (Mineral Soil Groups) is provided as a supplement to address outstanding requirements of Exhibit 15 for NYS Agricultural Land Classified with Mineral Soil Groups 1 through 4.*

*An Agricultural Plan consistent with the New York State Department of Agriculture and Markets Guidelines is provided in Article 10: Exhibit 4, Section (i).*

- (d) A remediation plan to address inadvertent damages to surface or sub-surface drainage, including:

*Provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q). In addition, the Applicant has developed a Preliminary Drain Tile Maintenance Plan to address potential impacts to and procedure for repair of any damaged tile. and is provided as a supplement prepared to address the outstanding requirements of Exhibit 15*

- (1) A demonstration of the likelihood of impacts to surface or subsurface drainage and how the interruption of drainage may impact farmland within and outside of the facility site; and

*Provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q). This information is also discussed in the Drain Tile Maintenance Plan.*

- (2) An identification of methods of repair for damaged drainage features.

*Provided in Article 10 Application: Exhibit 4, Section (i); Exhibit 22, Section (q). This information is also discussed in the Drain Tile Maintenance Plan.*

- (e) Any agricultural co-utilization plan for the lifespan of the facility shall demonstrate that the proposed agricultural co-utilization will be feasible. The plan shall be assembled by a qualified or accredited third party agricultural professional. The plan should include an itemization of the investments made by the applicant to facilitate the agricultural co-utilization (e.g., grazing plan, planting pasture species, development of watering facilities, modified access for livestock trailers, panel spacing, additional fencing, access roads, gates, housing, etc.).

*This information was not provided in the Article 10 Application because the Applicant does not have plans for agricultural co-utilization; therefore, the information is not required to meet the 94-c requirement.*



# Heritage Wind Project

Town of Barre, Orleans County, New York

Figure 1: Agricultural Value Use Assessments

- Wind Turbine
- Permanent Met Tower
- Access Road
- Collection Line
- POI Substation
- Collection Substation
- O&M Facility
- Laydown Yard
- Facility Site
- Parcel with Agricultural Value Use Assessment
- Town Boundary
- County Boundary

Orleans County  
Genesee County

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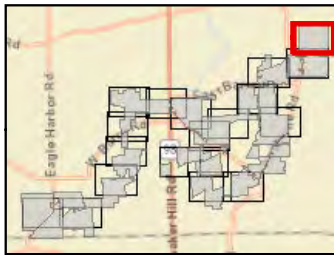
Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Temporary Impact Area
- Permanent Impact Area
- Active Agricultural Lands
- Wind Turbine
- Access Road
- Collection Line
- Facility Site



Sheet 1 of 19

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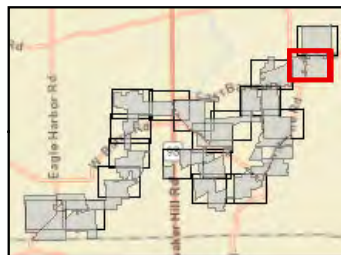
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

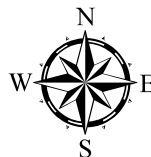
- Drain Tile\*
- - - Temporary Impact Area
- Permanent Impact Area
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- Collection Line
- Facility Site

\*Location of drain tiles were digitized from paper maps and is not intended to depict survey-accurate information.

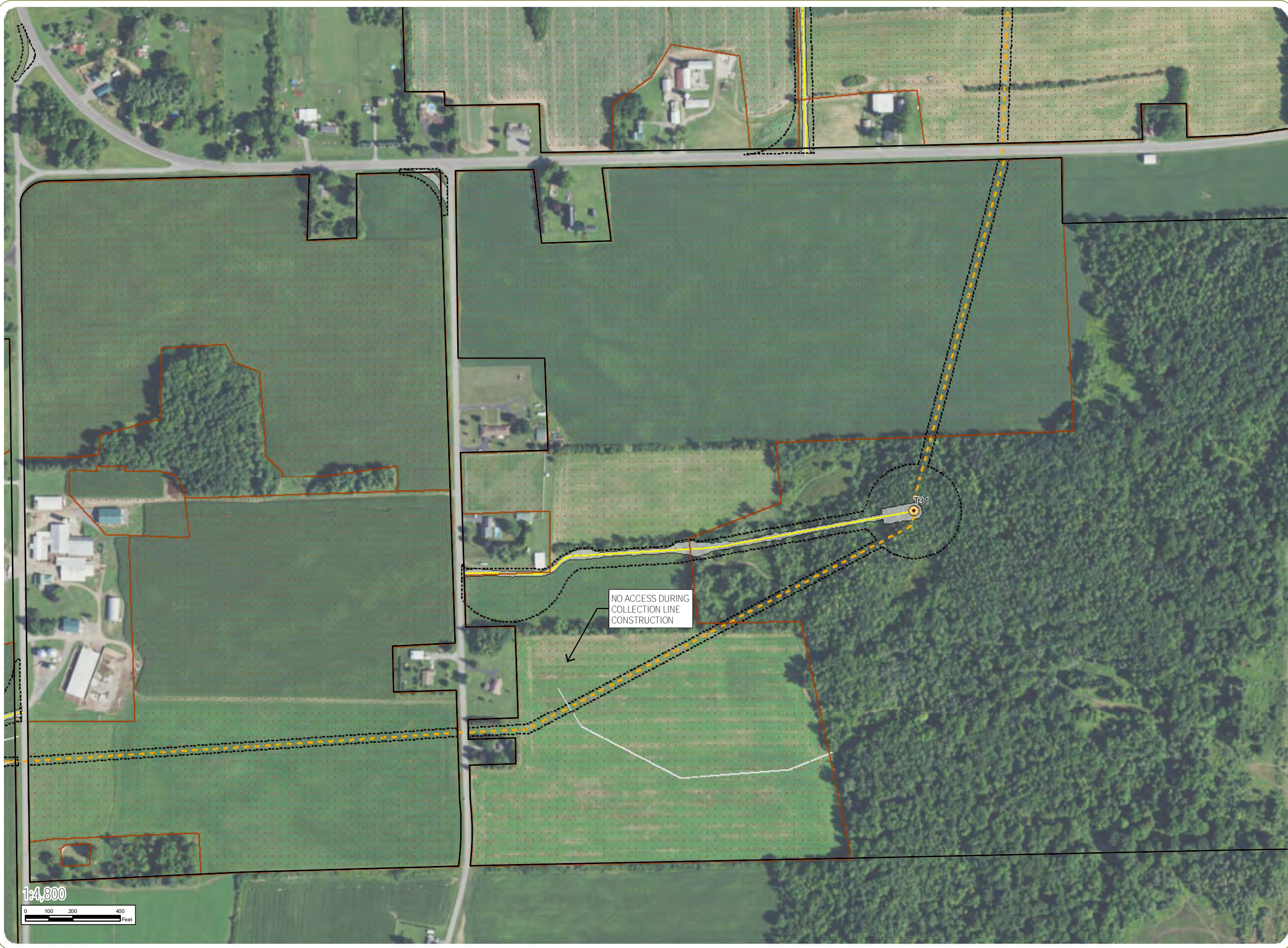


Sheet 2 of 19

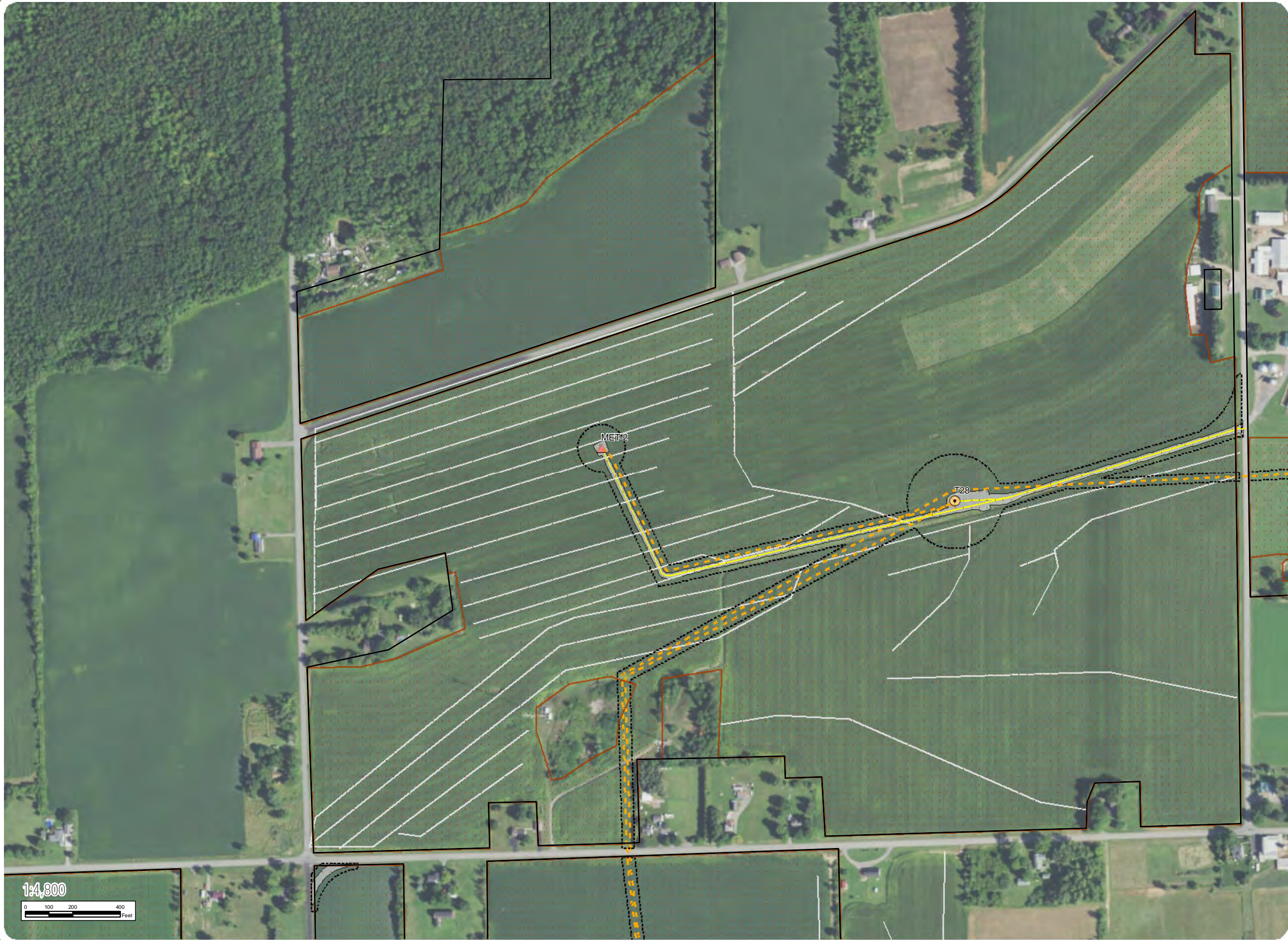
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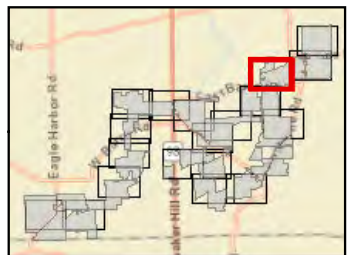
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
- - - Temporary Impact Area
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- Facility Site

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Sheet 3 of 19

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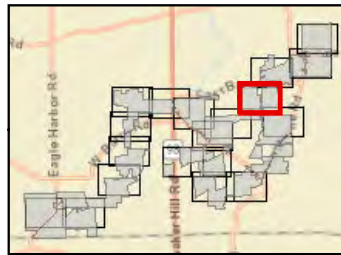
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
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Sheet 4 of 19

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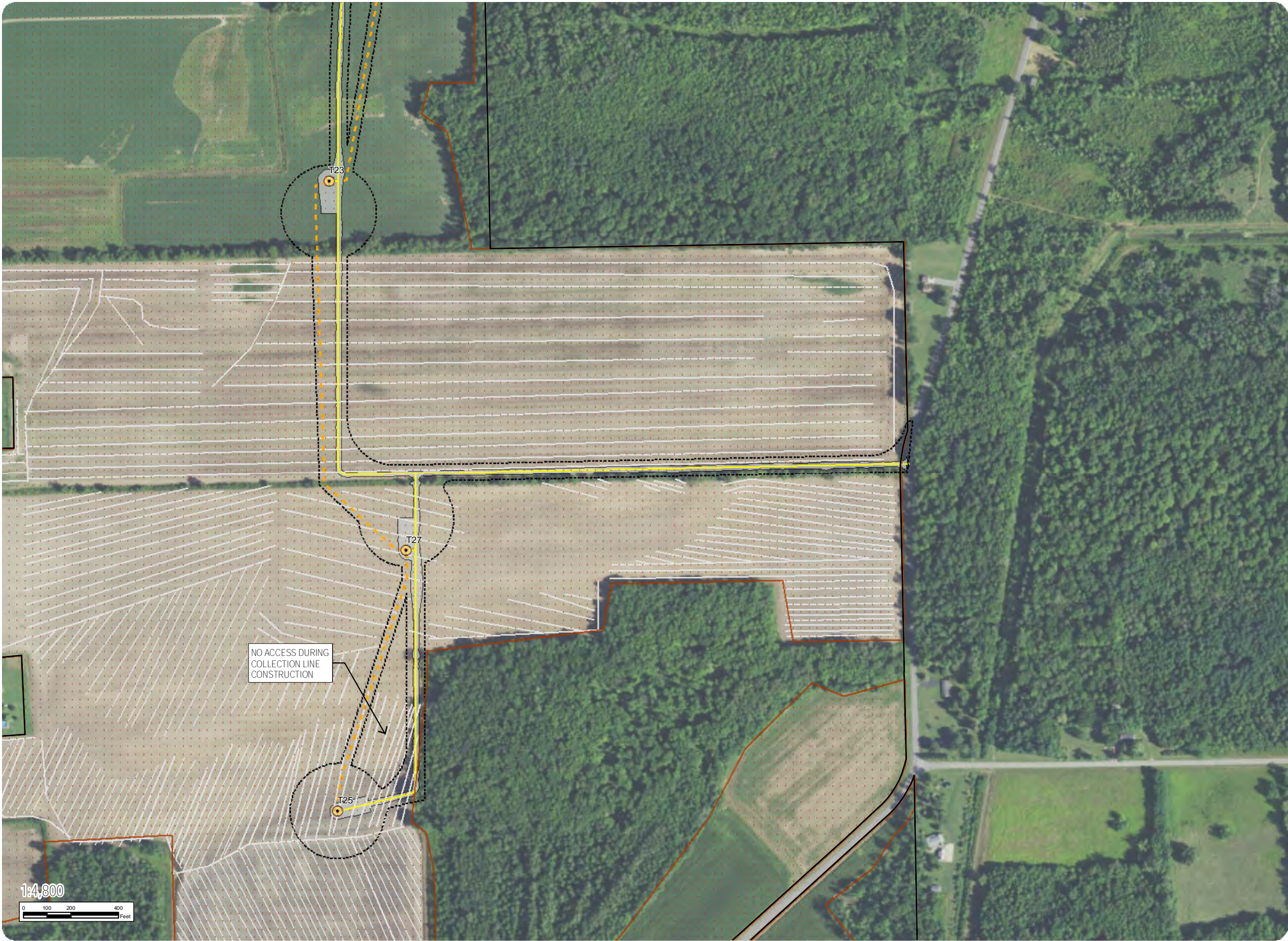


Heritage Wind Project

Town of Barre, Orleans County, New York

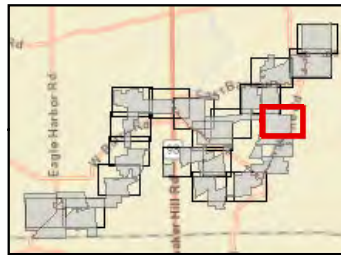
Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands



- Drain Tile\*
- - - Temporary Impact Area
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- Active Agricultural Lands
- Wind Turbine
- Access Road
- - - Collection Line
- Facility Site

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Sheet 5 of 19

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Project

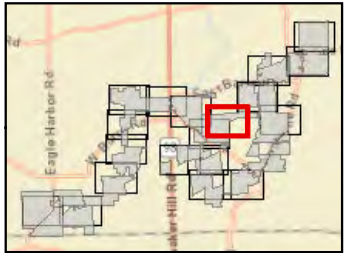
Town of Barre, Orleans  
County, New York

Section 94c Transition  
Supplement

Figure 2: Temporary  
and/or Permanent Impacts  
to Active Agricultural  
Lands

- Drain Tile\*
- - - Temporary Impact Area
- Permanent Impact Area
- Active Agricultural Lands
- Wind Turbine
- Access Road
- - - Collection Line
- Facility Site

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Sheet 6 of 19

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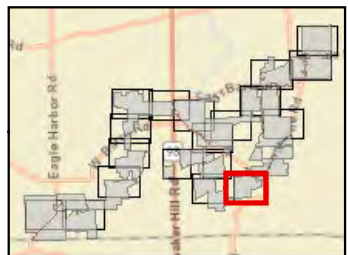
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
- - - Temporary Impact Area
- Permanent Impact Area
- Active Agricultural Lands
- Wind Turbine
- Access Road
- Collection Line
- Facility Site

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Sheet 7 of 19

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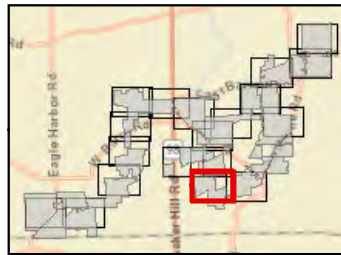
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
- - - Temporary Impact Area
- Permanent Impact Area
- Active Agricultural Lands
- Wind Turbine
- Access Road
- - - Collection Line
- Facility Site

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Sheet 8 of 19

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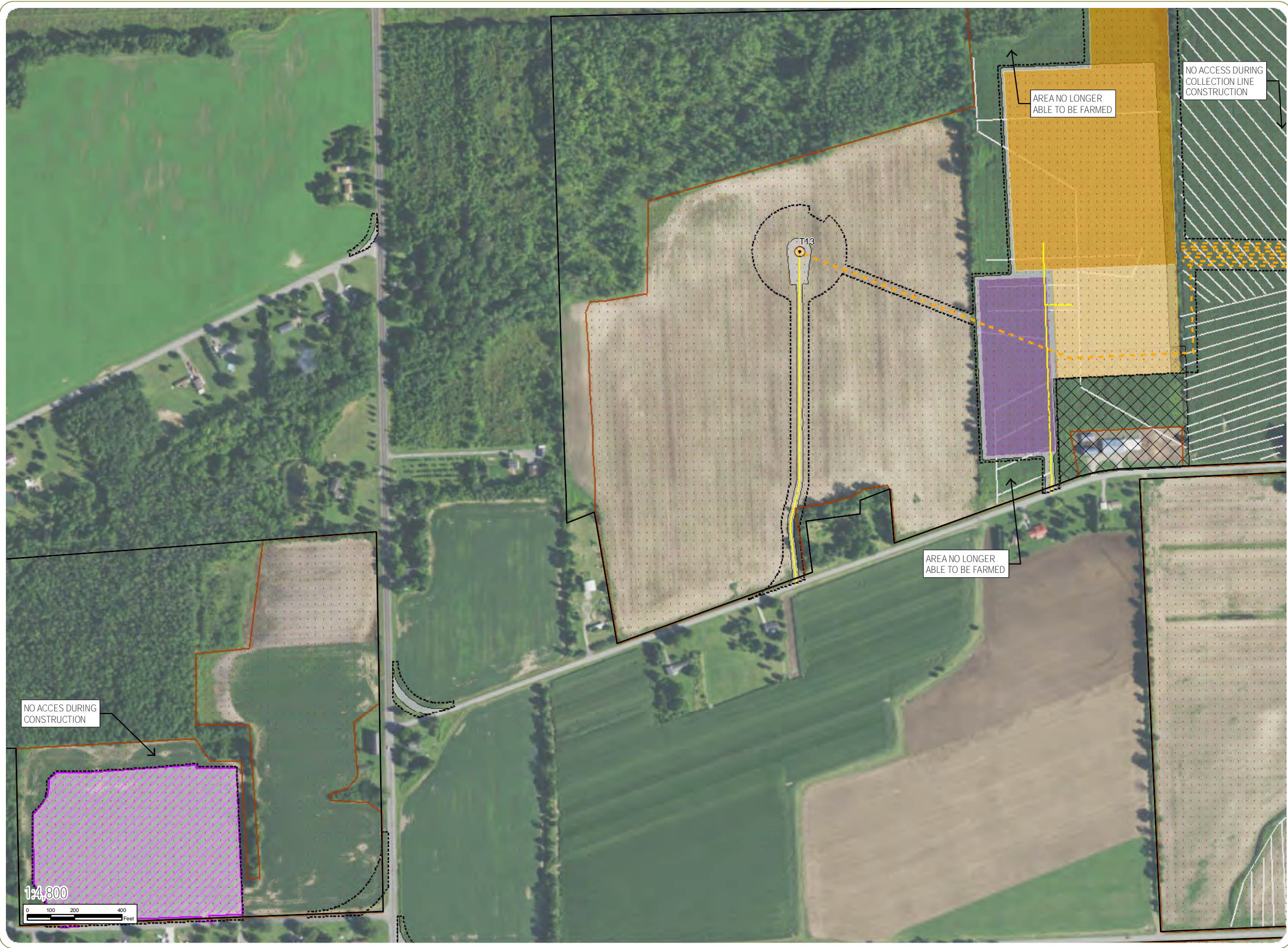
Section 94c Transition  
Supplement

-  Drain Tile\*
-  Component Exclusion Zone
-  Turbine Exclusion Zone
-  Temporary Impact Area
-  Permanent Impact Area
-  Active Agricultural Lands
-  Wind Turbine
-  Access Road
-  Collection Line
-  POI Substation
-  Collection Substation
-  O&M Facility
-  Facility Site

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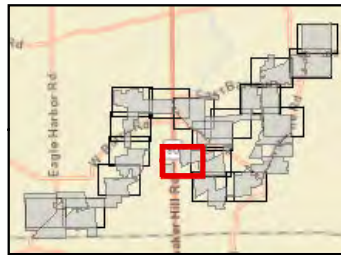
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
- ⊠ Component Exclusion Zone
- - - Temporary Impact Area
- Permanent Impact Area
- ⋯ Active Agricultural Lands
- Wind Turbine
- Access Road
- - - Collection Line
- POI Substation
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- ▨ Laydown Yard
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Sheet 10 of 19

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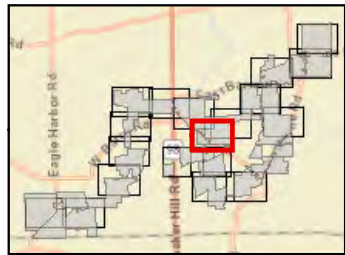
Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands



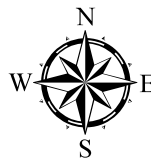
- Drain Tile\*
- ⬢ Turbine Exclusion Zone
- ⬢ Temporary Impact Area
- ⬢ Permanent Impact Area
- ⬢ Active Agricultural Lands
- ⬢ Wind Turbine
- Access Road
- - - Collection Line
- POI Substation
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Sheet 11 of 19

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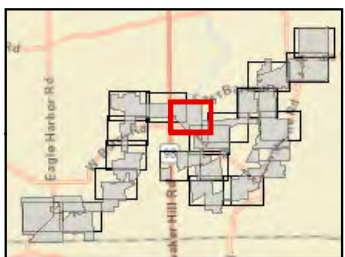
Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Drain Tile\*
- Turbine Exclusion Zone
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Sheet 12 of 19

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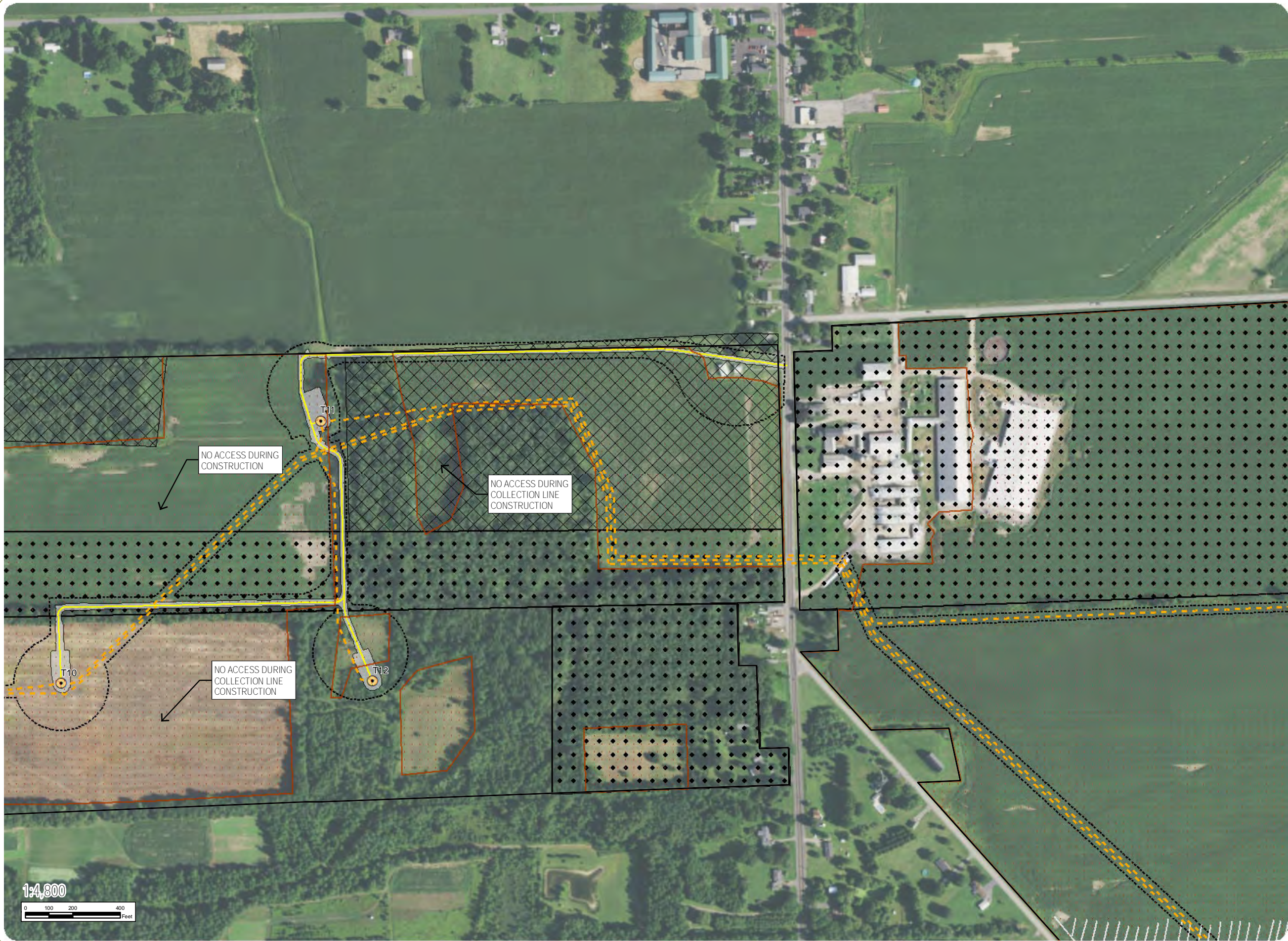


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Town of Barre, Orleans County, New York

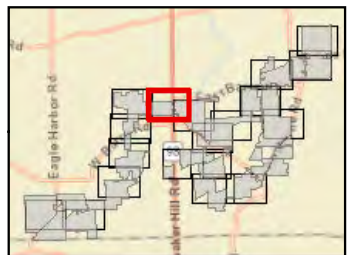
Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands



- Drain Tile\*
- ⊞ Component Exclusion Zone
- Turbine Exclusion Zone
- - - Temporary Impact Area
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Sheet 13 of 19

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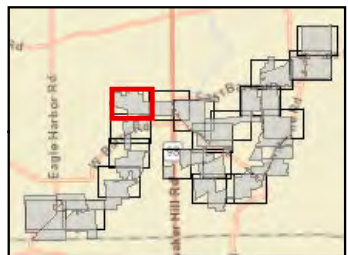
# Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Component Exclusion Zone
- Turbine Exclusion Zone
- Temporary Impact Area
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- Wind Turbine
- Permanent Met Tower
- Access Road
- Collection Line
- Facility Site



Sheet 14 of 19

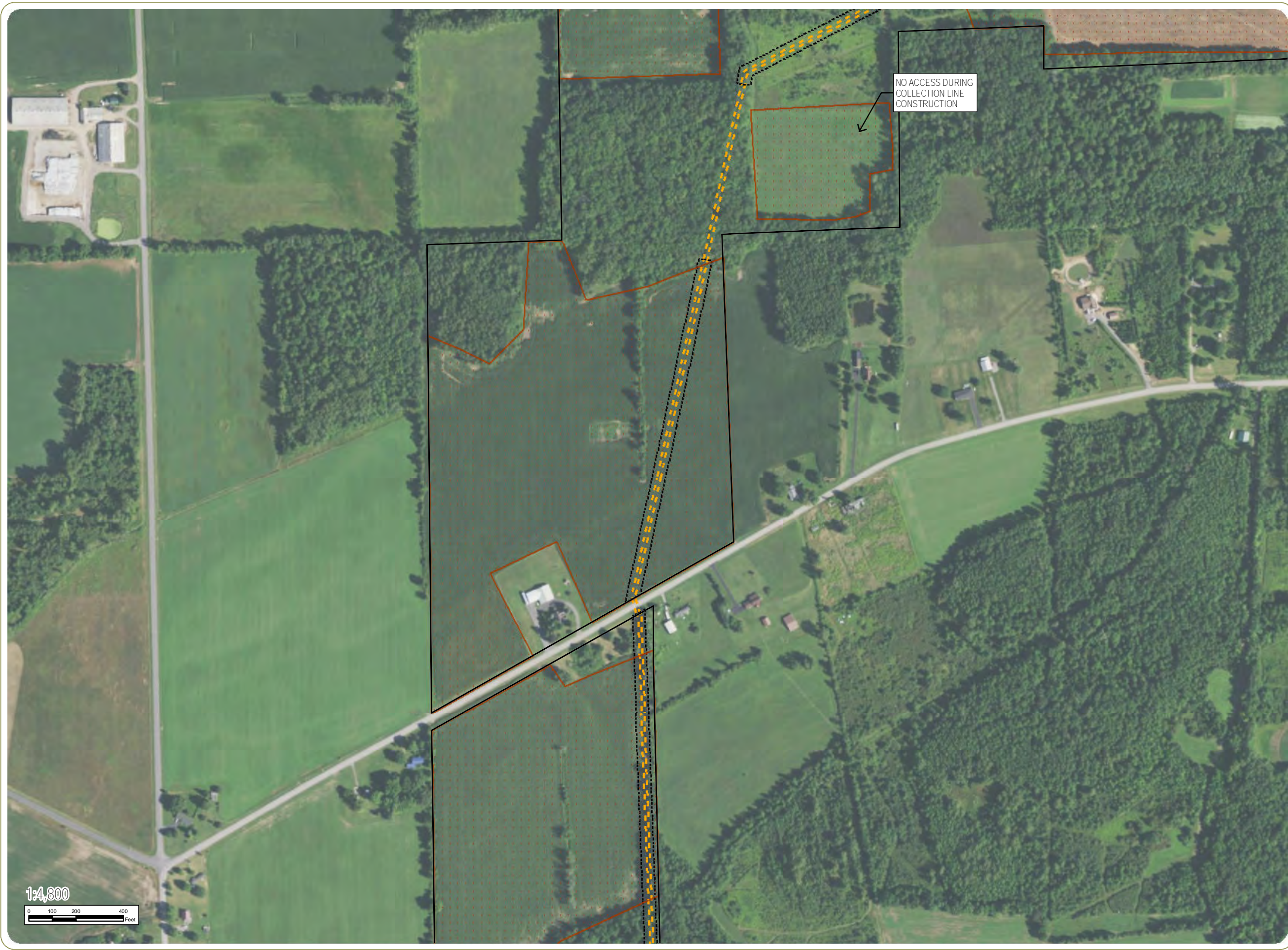
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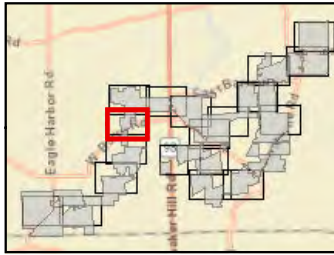
# Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Temporary Impact Area
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Sheet 15 of 19

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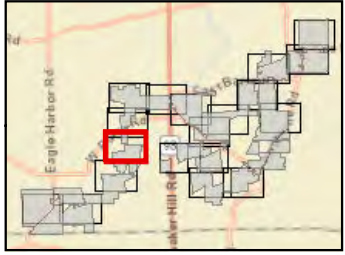
# Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

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Sheet 16 of 19

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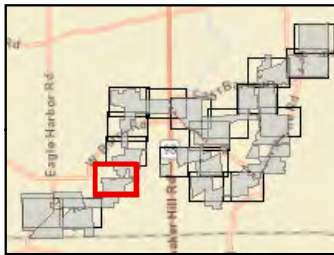
Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

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Sheet 17 of 19

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NO ACCESS DURING CONSTRUCTION

NO ACCESS DURING CONSTRUCTION OR ACCESS FROM EAST NO ACCESS DURING COLLECTION LINE CONSTRUCTION

NO ACCESS DURING CONSTRUCTION

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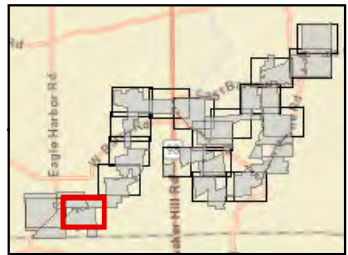
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Town of Barre, Orleans County, New York

Section 94c Transition Supplement

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Sheet 18 of 19

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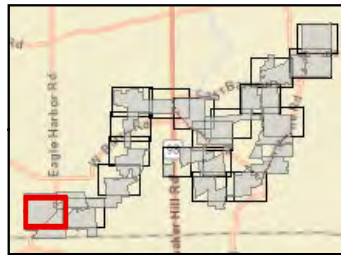
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Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 2: Temporary and/or Permanent Impacts to Active Agricultural Lands

- Temporary Impact Area
- Permanent Impact Area
- Active Agricultural Lands
- Wind Turbine
- Access Road
- Collection Line
- Facility Site

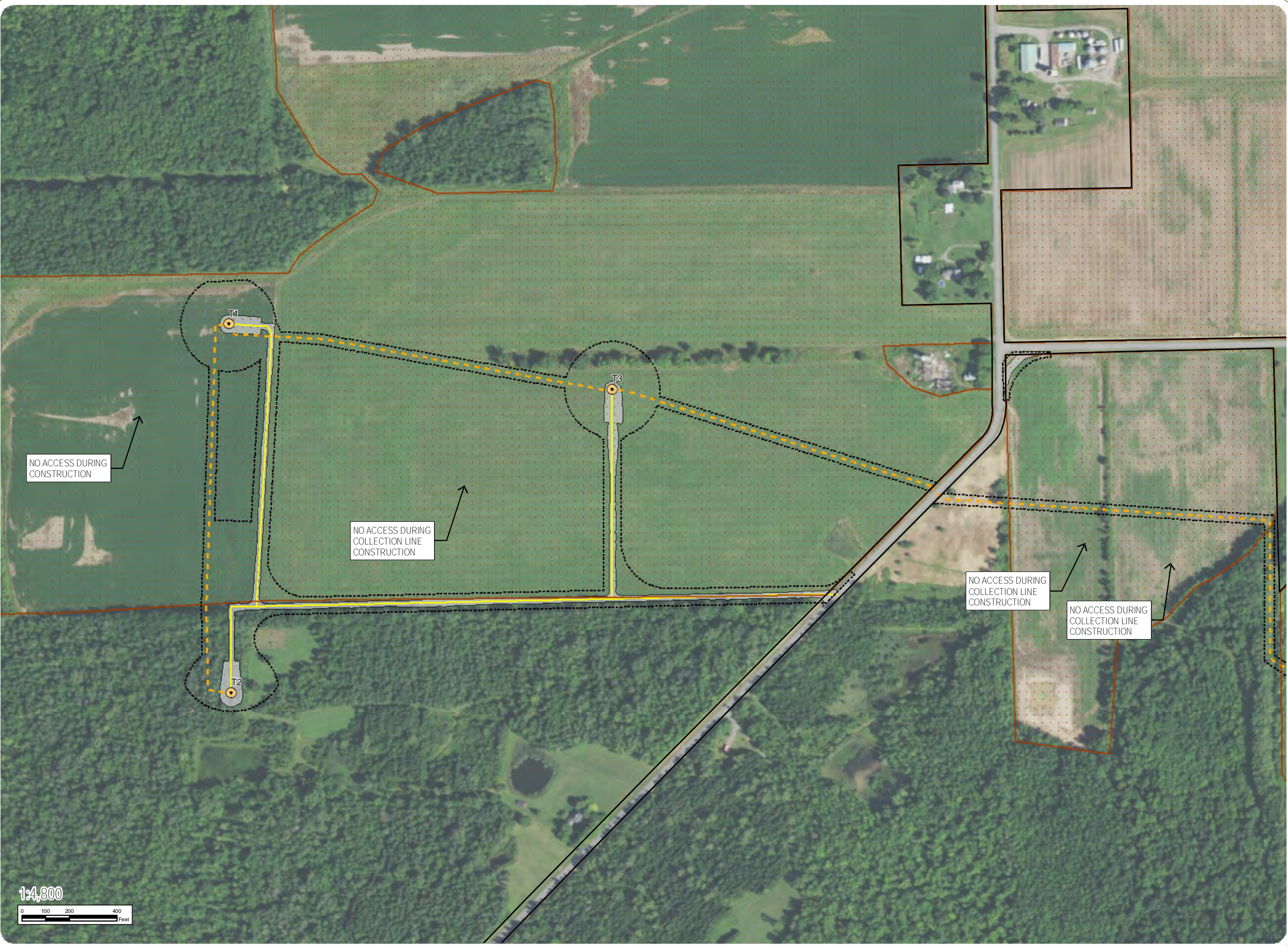


Sheet 19 of 19

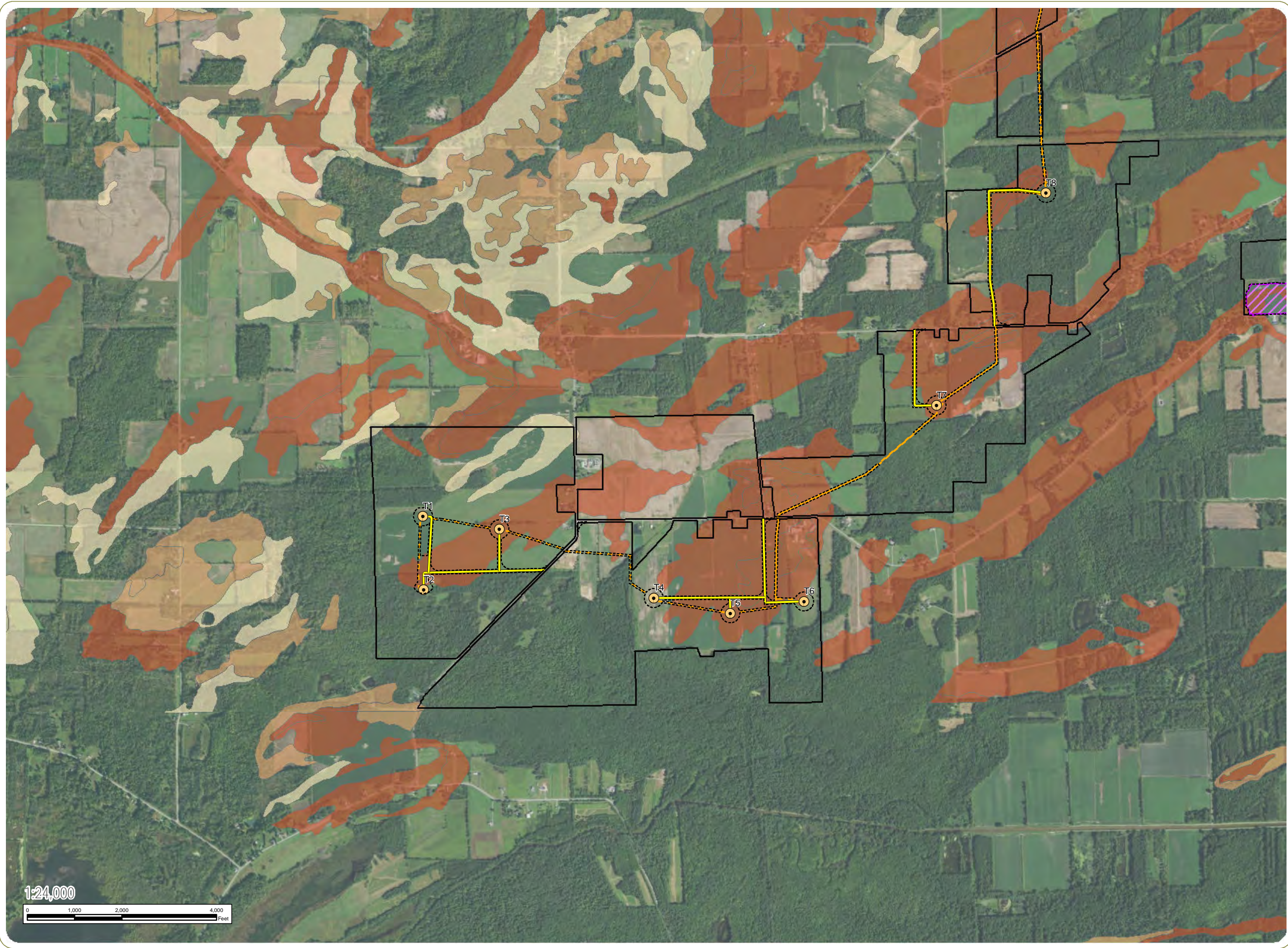
Notes: 1. Basemap: USDA NAIP "2019 New York 60cm" orthomagery map service. 2. This map was generated in ArcMap on December 7, 2020. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.



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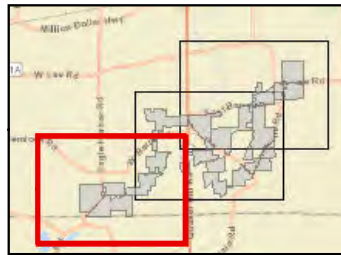
# Heritage Wind Project

Town of Barre, Orleans County, New York

Section 94c Transition Supplement

Figure 3: NYS Agricultural Land Classification Mineral Soil Groups

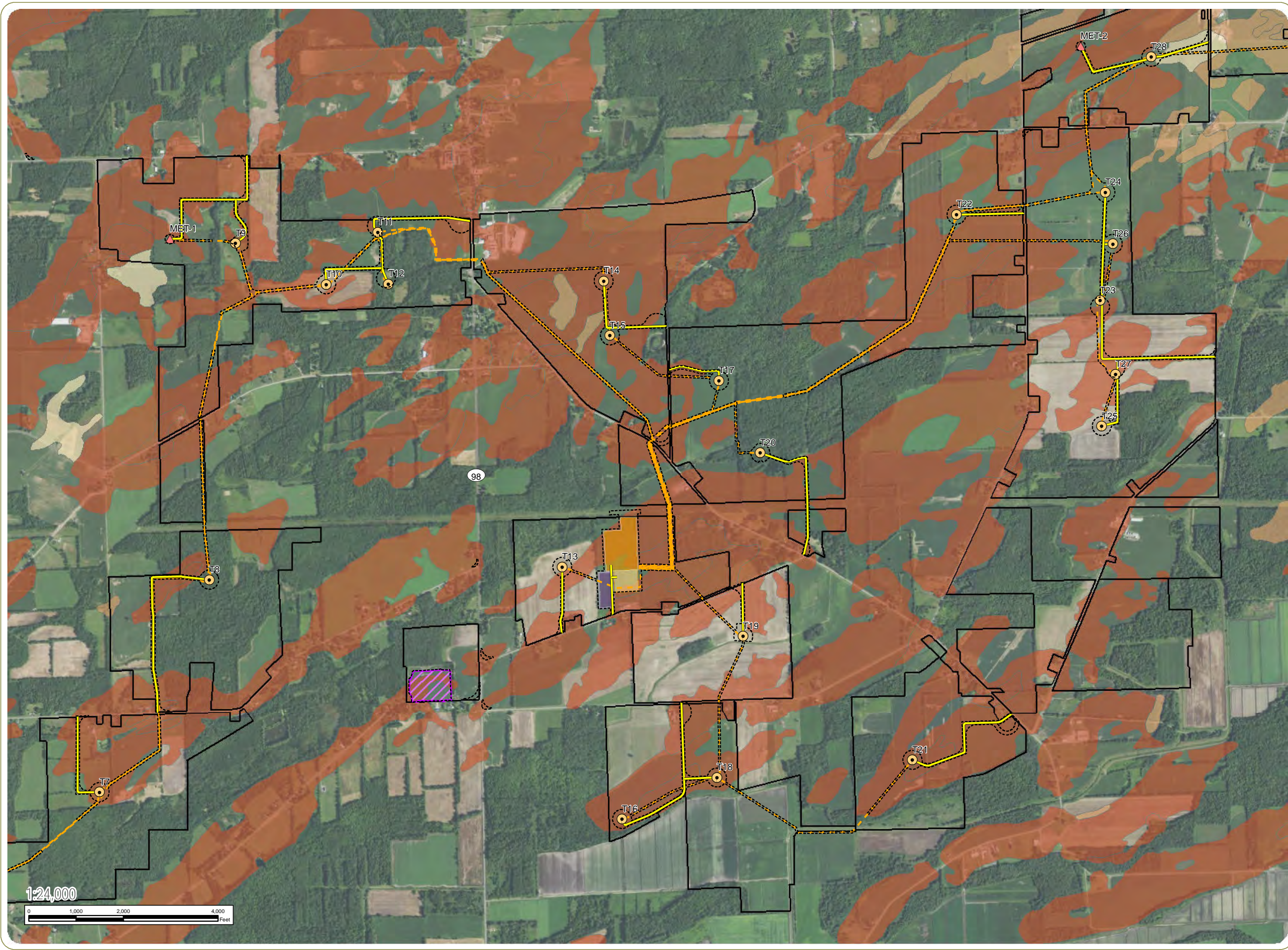
- Wind Turbine
- Access Road
- Collection Line
- Laydown Yard
- Facility Site
- Mineral Soil Groups
  - Soil Group 2
  - Soil Group 3
  - Soil Group 4
  - Soil Groups 5-10



Sheet 1 of 3

Notes: 1. Basemap: USDA NAIP "2019 New York 60cm" orthoimagery map service. 2. This map was generated in ArcMap on December 4, 2020. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.





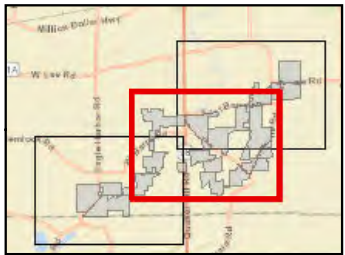
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Section 94c Transition Supplement

Figure 3: NYS Agricultural Land Classification Mineral Soil Groups

- Wind Turbine
- Permanent Met Tower
- Access Road
- Collection Line
- POI Substation
- Collection Substation
- O&M Facility
- Laydown Yard
- Facility Site
- Mineral Soil Groups
  - Soil Group 2
  - Soil Group 3
  - Soil Group 4
  - Soil Groups 5-10



Sheet 2 of 3

Notes: 1. Basemap: USDA NAIP "2019 New York 60cm" orthomagery map service. 2. This map was generated in ArcMap on December 4, 2020. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.



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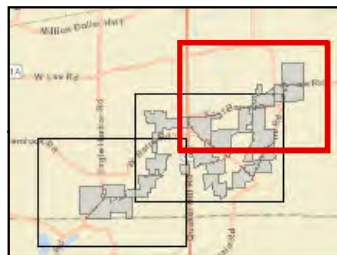
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Town of Barre, Orleans County, New York

Section 94c Transition Supplement

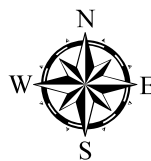
Figure 3: NYS Agricultural Land Classification Mineral Soil Groups

- Wind Turbine
- Permanent Met Tower
- Access Road
- Collection Line
- Facility Site
- Mineral Soil Groups
  - Soil Group 2
  - Soil Group 3
  - Soil Group 4
  - Soil Groups 5-10



Sheet 3 of 3

Notes: 1. Basemap: USDA NAIP "2019 New York 60cm" orthomagery map service. 2. This map was generated in ArcMap on December 4, 2020. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.



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