



**Appendix 12-C: ORES Determination on Listed Species**



**Cider Solar  
Determination of Occupied Habitat, Incidental Take and Net Conservation Benefit  
May 26, 2021**

**Wildlife Site Characterization**

In compliance with 19 NYCRR § 900-1.3(g)(2), Hecate Energy Cider Solar LLC. (Applicant) provided a draft Wildlife Site Characterization Report for the proposed Cider Solar Farm, Towns of Elba and East Oakfield, Genesee County, New York dated January 15, 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 ORES permitting process at Executive Law §94-c and 19 NYCRR Part 900.

**Avian Surveys**

The Applicant provided a Breeding Bird Survey Report dated October 14, 2020 and a Winter Grassland Raptor Survey Report dated April 14, 2021. The Applicant completed the associated breeding bird surveys for the facility site from June 1, 2020 – July 20, 2020 and completed the winter grassland raptor surveys from November 2020 – March 2021. 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.



## Office of Renewable Energy Siting

ANDREW M. CUOMO  
GOVERNOR

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ACTING EXECUTIVE DIRECTOR

### Indiana Bat

The facility site is not within two and a half (2.5) miles of maternity roost sites, hibernaculum or bachelor colonies.

### Bald Eagle

There are no bald eagle nests identified within close proximity of the facility site.

### Grassland Birds

The facility will not result in the potential take of any threatened or endangered grassland bird species.

### Other State-listed Species

There are not any other known state-listed species occurrences within the facility site.

### Summary of Habitat Take

As discussed above, ORES in consultation with NYSDEC has determined that the Cider Solar Facility will not impact listed species with the current design and layout presented as part of this review. This Determination of Occupied Habitat 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 Plan (if required) as part of Exhibit 12 (§900-2.13) in support of an application to the Office for a major renewable energy facility.

Please note that the basis for the Office's draft determination regarding occupied habitat and potential take for this facility 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 if additional pre-application consultation is required.

CC: NYSDEC