



**SOMERSET SOLAR, LLC**

**MATTER NO. 22-00026**

**§900-2.4 EXHIBIT 3**

**Location of Facilities and Surrounding Land Use**

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## ACRONYM LIST

%	percent
§	Section
AC	alternating current
Applicant	Somerset Solar, LLC
DSNY	Dig Safely New York
ESA	Environmental Site Assessment
Facility	Somerset Solar Facility
Facility Substation	Somerset Collector Substation
FEMA	Federal Emergency Management Agency
GIS	Geographic Information Systems
HDD	horizontal directional drill(ing)
kV	kilovolt
LOD	Limit of Disturbance
LWRP	Local Waterfront Revitalization Program
MW	megawatt
NYCRR	New York Codes, Rules and Regulations
NYS	New York State
NYSAGM	New York State Department of Agriculture and Markets
NYSDEC	New York State Department of Environmental Conservation
NYSEG	New York State Electric and Gas Corporation
ORES	Office of Renewable Energy Siting
POI	Point of Interconnection
PUD	Planned Unit Development
Solar Law	Town of Somerset's Solar Energy Systems Law
SWDA	Solid Waste Disposal Area
Town	Town of Somerset
USGS	United States Geological Survey

## GLOSSARY TERMS

<b>Applicant</b>	Somerset Solar, LLC, a subsidiary of The AES Corporation, Inc. (AES), the entity seeking a siting permit for the Facility Site from the Office of Renewable Energy Siting (ORES) under Section (§) 94-c of the New York State Executive Law.
<b>Application</b>	Application under §94-c of the New York State Executive Law for review by the ORES for a Siting Permit.
<b>Facility</b>	The proposed components to be constructed for the collection and distribution of energy for the Somerset Solar Facility, which includes solar arrays, inverters, electric collection lines, and the collection substation.
<b>Facility Site</b>	The limit of disturbance (LOD) that will be utilized for construction and operation of the Facility, which totals about 696 acres on the Project Parcels in the Town of Somerset, Niagara County, New York (Figure 2-1).
<b>Project Parcels</b>	The parcels that are currently under agreement with the Applicant and Landowner, totaling about 1,784 acres in the Town of Somerset, Niagara County, New York, on which the Facility Site will be sited (Figure 3-1).
<b>Project Site</b>	The acreage of the Project Parcels under agreement between the Applicant and the Landowner, consisting of approximately 1,396 acres, in which the Applicant has performed diligence, surveys and assessments in support of Facility design and layout.

## **EXHIBIT 3 LOCATION OF FACILITIES AND SURROUNDING LAND USE**

This exhibit addresses the requirements specified in 19 New York Codes, Rules and Regulations (NYCRR) Section (§) 900-2.4. The Somerset Solar Facility (Facility) limit of disturbance (LOD or Facility Site) is situated on industrial, agricultural, and forested lands. The surrounding areas are comprised of developed and disturbed industrial land, including a coal combustion residue solid waste landfill (solid waste disposal area [SWDA]; SWDA I), limited facilities that were part of the former coal plant, (Somerset Station), a New York State Electric and Gas Corporation (NYSEG) 345 kilovolt (kV) transmission corridor, Lake Ontario (forms portions of the northern boundary), agricultural land, forests, and a small number of residential properties. Solar panels maintain a rural character by not increasing the demand for housing, community services, or local infrastructure. Solar energy generation does not result in air emissions, smoke, steam plumes, odor, noise, wastewater generation, water use, or other negative impacts typical of other development types. Somerset Solar, LLC (Applicant) intends to minimize impacts to community character through strategically placing vegetative screening, applying the Office of Renewable Energy Siting (ORES)-approved setbacks from residential uses, and avoiding sensitive resources. The Facility will have little impact on the existing land use outside of the Facility Site. The primary potential effects will be during construction, which is temporary. The Applicant has strived to balance the goals of New York State (NYS) and the Facility with the goals of the community, as outlined in the local comprehensive plans and discussed with local landowners and the Town of Somerset (Town). The Facility has been designed to comply with 19 NYCRR §900-2.4 and the Uniform Standards and Conditions.

This exhibit includes a series of figures showing the proposed location of Facility components relative to existing land uses, zoning districts, and other information as specified in §900-2.4 with accompanying discussion. The evaluation includes the Facility Site as well as the 5-mile study area, where noted and depicted on the exhibit figures.

### **3(a) United States Geological Survey (USGS) Maps**

The maps and figures provided with this Exhibit were developed with the most recent edition of the United States Geological Survey (USGS) maps at a scale of 1:24,000 in compliance with §900-2.4(a).

#### ***(1) Facility Site***

The proposed Facility is located at 7725 Lake Road within the Town of Somerset, Niagara County, New York. The Facility is a 125 megawatt (MW) solar facility, located on five

parcels for which the Applicant currently has a leasehold interest (Exhibit 4), consisting of approximately 1,784 acres (the Project Parcels) (Figure 3-1). Portions of the inactive, former coal-fired power plant and adjacent parcels are proposed for redevelopment, for construction of the solar energy generation facility. The Project Parcels comprise a larger area than the Project Site, totaling approximately 1,784 acres (Figure 3-1), and are owned by Terroir Development, LLC and Somerset Operating Company, LLC. Somerset Operating Company, LLC is the former operator of the coal plant. The location of the Facility is within a rural agricultural and industrial area. The Facility Site has been sited within the larger Project Parcels in a manner that maximizes use of open space and avoids potential impacts to sensitive habitats and adjacent residents, to the maximum extent practicable.

The Facility Site comprises smaller areas within the Project Parcels and consists of 10 discrete development areas (Figure 3-3 and Appendix 5-A, Sheet PV-C.02.00, Areas 1–10). The surrounding areas are comprised of developed and disturbed industrial land, a coal combustion residue solid waste landfill (SWDA I), a 345-kV transmission corridor, Lake Ontario (to the north), agricultural land, and residential properties. The maximum area to be disturbed during construction (LOD) is approximately 696 acres within the fenced area (including stormwater best management practices and sediment controls), which is approximately 39 percent (%) of the potential land available within the Project Parcels. Figure 3-1 shows the location of the Facility. The Facility is located north and south of NYS Route 18/Lake Road and north of regional population centers (i.e., Lockport, New York). Figure 3-1 includes locations of solar panels, electric collection and gen-tie transmission line interconnection, as well as ancillary features located at the Facility such as the Somerset Collector Substation (Facility Substation), access roads, and similar features. For more detailed Facility layout information, refer to Appendix 5-A and Appendix 5-B. Crossings of public roadways will be required for the Facility, and are associated with locations where electrical collection lines will be installed underground using horizontal directional drill (HDD) methods at 20 locations (Figure 20-1).

## ***(2) Project Interconnections***

No interconnection facilities, communication lines, stormwater drainage lines, or appurtenances thereto are proposed outside of the Project Parcels for the Facility. The proposed point of interconnection (POI) for the Facility is the NYSEG 345-kV Kintigh Substation, which is located immediately adjacent to the Facility Site and the Facility

Substation, within the Project Site (Figure 3-2). The Facility Substation will connect to the Kintigh Substation via an approximately 159-foot overhead 345-kV gen-tie transmission line interconnection line (Appendix 5-B, Sheets TL-P.00.01 and TL-P.01.01). All Facility interconnections, electrical lines, stormwater features<sup>1</sup>, and HDD crossings are proposed within the boundary of the Facility Site as shown on Figure 3-2 and Figure 20-1.

### ***(3) Proposed Limits of Clearing and Disturbance***

The Facility has been designed to maximize use of existing open space, including industrialized areas associated with the former coal plant and agricultural fields. The proposed limits of clearing and total disturbance for construction (approximately 696 acres) of all Facility components and ancillary features are shown on Figure 3-3. Impacts to forested areas includes both tree/shrub clearing and grubbing and selective tree/shrub cutting areas. Approximately 82.3 acres of tree/brush clearing and grubbing is proposed. Although tree/brush clearing and grubbing areas are distributed throughout the Facility Site, the majority of these activities are located in the northwestern and southwestern portions of the Facility Site (Appendix 5-A, Sheets PV-C.02.01–PV-C.02.02, Area 1 and Area 2). Selective tree/brush cutting totals approximately 10.6 acres and is primarily located in Area 2 and Area 4 of the LOD (Appendix 5-A, Sheets PV-C.02.01 and PV-C.02.04). Additionally, minimal selective tree/brush cutting will also occur in proximity to Fish Creek, an ORES-jurisdictional waterbody, in Area 4 and within a small portion of Area 10 (Appendix 5-A, Sheets PV-C.02.04 and PV-C.02.10). Exhibit 13 provides more detail for tree/brush clearing and grubbing and selective tree/brush cutting in relation to where these activities will occur in proximity to surface waters. Discussions with the landowners have confirmed that none of the forested areas located within the Facility Site are included in a 480a Forest Tax Law Program.

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<sup>1</sup> Appendix 5-A, Sheet PV-C.02.06 identifies an area where the filter strip is located outside the limit of disturbance. An existing forested area is proposed to be used to function as a 35-foot wide grassed filter strip. No additional tree/shrub clearing is required along the road, and no ground disturbance or construction activities will occur outside the limit of disturbance in this area.



### **3(b) Area Maps**

Figure 3-4 shows the location of the Facility Site in relation to municipal boundaries and taxing jurisdictions within a 5-mile radius and shows the Facility Site outlined within the larger Project Site. No ancillary features are proposed for the Facility outside the Facility Site.

### **3(c) Description of Facilities Relative to Taxing Jurisdiction**

All Facility components, including the 125 MW of photovoltaic solar modules, collection lines, and access corridors will be contained within the Facility Site. The gen-tie transmission line interconnection consists of a 159-foot overhead interconnection line that will connect the Facility Substation to Kintigh Substation (Appendix 5-B, Sheets TL-P.00.01 and TL-P.01.01) at the POI and is contained within the Project Parcels (Figure 3-2 and Figure 20-1). The Facility Site is entirely located within the Town of Somerset, Niagara County (Figure 3-4). School districts located within the 5-mile study area include Village of Barker School District and Town of Newfane School District. No publicly available data was identified for mapping fire districts within the 5-mile study area.

### **3(d) Existing Land Use**

Figure 3-5 has been prepared using Property Classification Codes from the NYS Office of Real Property Services to classify land use within a 5-mile study area around the Facility Site. Property Classification Codes describe the primary use of each parcel and are consistent throughout NYS.

The NYS Office of Real Property Services Property Classification Code categories that occur within the 5-mile study area include: Unknown (0), Agricultural Use (100); Residential Use (200); Vacant Land (300); Commercial Use (400); Recreation and Entertainment Use (500); Community Service (600); Industrial Use (700); Public Services (800); and Wild, Forested, Conservation Lands & Parks (900). Each category that occurs within the 5-mile study area is described in Table 3-1 below and shown on Figure 3-5. The majority of the Property Classification Codes in the 5-mile study area are Agricultural Use, Residential Use and Vacant Land. The majority of the Property Classification Codes in the Facility Site are Vacant Land and Residential Use (97%).

**Table 3-1. Property Classification Code Categories within the 5-Mile Study Area**

Code	Name	Description	Approximate Acreage within Facility Site	Approximate Acreage within 5-Mile Study Area	Approximate Percent (%) of Classification Code within Facility Site
100	Agricultural Use	Property used for the production of crops or livestock	<0.0	12,128	0.0%
200	Residential Use	Property used for human habitation <sup>1</sup>	241.9	16,274	1.5%
300	Vacant Land	Property that is not in use, is in temporary use, or lacks permanent improvement	452.7	9,710	4.7%
400	Commercial Use	Property used for the sale of goods and/or services	0.0	429	0.0%
500	Recreation & Entertainment Use	Property used by groups for recreation, amusement or entertainment	0.0	550	0.0%
600	Community Services	Property used for the well-being of the community	<0.0	344	0.0%
700	Industrial Use	Property used for the production and fabrication of durable and non-durable man-made goods	0.0	357	0.0%
800	Public Services	Property used to provide services to the general public	0.0	86	0.0%
900	Wild, Forested, Conservation Lands & Parks	Reforested lands, preserves, and private hunting and fishing clubs	0.0	346	0.0%
0	Unidentified	Unidentified	1.3	124	<0.0%

1 – Living accommodations such as hotels, motels, and apartments are in the Commercial category (400).

2 – Approximate Acreage within Facility Site divided by approximate Acreage within 5-Mile study Area as a percentage

### 3(e) Existing Major Facilities

Figure 3-6 illustrates existing major electric and gas transmission facilities, and public water supply lines within the 5-mile study area. Figure 20-1 includes locations of Verizon communication lines and easements located on the Facility Site, as well as Verizon broadband and Time Warner Cable modem lines located within 1-mile of the Facility Site. These features were identified using publicly available geographic information system (GIS) data, as well as through communications with landowners, local utilities, and field observations. An existing Town sewer line easement is located on the Facility Site; the sewer line is not anticipated to be impacted or require crossing to construct the Facility (Appendix 5-A, Sheet PV-C.02.07). Figure 20-1 also maps the HDD locations associated with construction of the Facility, including those that will be required to install electrical collection lines across public roadways, and a proposed Verizon cell tower location. A portion of the existing Verizon telecommunications line located within the Facility Site will be relocated to provide telecommunication services to the Facility Substation as shown on Figure 20-1 and detailed in Appendix 5-A, Sheet PV-C.02.01. Table 3-2 provides an overview of the existing and proposed utilities within a 5-mile radius of the Facility Site, as well as an impact summary. Table 3-3 provides a summary of stakeholder consultations that have occurred with owners of identified major facilities that may be impacted by the Facility.

**Table 3-2. Existing and Proposed Utilities Identified within Facility Site**

Easement/Structure	Owner	Site Plan/ Figure/Exhibit Reference	Impact
Electrical Transmission Line	New York State Electric and Gas Corporation (NYSEG)	Figure 3-6, Figure 15-4	Major utility/interconnection, coordination with NYSEG required
Proposed Cell Tower	Verizon	Exhibit 20, Figure 20-1	Located outside the limit of disturbance (LOD), no impact
Lake Mariner Data Center	Terawulf	Figure 15-6	Located outside the Project Site and LOD, no impact
Electrical Collection Line Crossings of New York State Route 18/Lake Road and Niagara County Route 65/Hosmer Road	New York State Department of Transportation (New York State Route 18/Lake Road) and Niagara County Department of Public Works (Niagara County Route 65/Hosmer Road)	Figure 20-1 and Appendix 5-A, Sheets PV-C.02.00–PV-C.02.10 and PV-C.04.01–PV-C.04.10	Horizontal Directional Drill (HDD) Locations, Underground utility/Dig Safely New York (DSNY) and coordination needed with New York Department of Transportation and Niagara County Department of Public Works

Easement/Structure	Owner	Site Plan/ Figure/Exhibit Reference	Impact
Communications Line	Verizon	Figure 20-1 and Appendix 5-A, Sheet PV-C.02.01	Portion of line to be relocated to provide communications service to the Somerset Collector Substation; coordination and updated easement agreement with Verizon required
Communications Line Easement	Verizon	Figure 20-1 and Appendix 5-A, Sheet PV-C.02.08	Crossing agreement for access road and easement for underground electrical collection line crossing (HDD) to be obtained with Verizon
Asymmetric Digital Subscriber Line (xDSL)	Verizon	Figure 3-6, Figure 20-1	Located outside the LOD, no impact
Cable Modem DOCSIS 3.0	Time Warner Cable	Figure 3-6, Figure 20-1	HDD locations, underground utility/DSNY and Time Warner Cable coordination needed
Water Utility Line	Town of Somerset Water Department	Figure 3-6, Figure 15-4	HDD locations, Town of Somerset coordination needed

**Table 3-3. Stakeholder Consultation for Major Utilities**

Stakeholder	Date	Notes
New York State Electric and Gas Corporation	January 1, 2022	Ongoing consultation; early stage of establishing crossing agreement
Verizon Communications	January 1, 2022	Ongoing consultation regarding relocation of existing underground telecommunications line to provide service to the Somerset Collector Substation and establishment of easement and crossing agreements
Time Warner Cable	To be initiated	
New York State Department of Transportation	To be initiated	
Niagara County Public Works Department	To be initiated	
Town of Somerset	To be initiated	

The NYSEG Kintigh Substation is located adjacent to the Facility Site, is the POI for the Facility and will connect the Facility to the Kintigh Substation 345-kV transmission line via above-ground utilities. The location and operation of these NYSEG facilities are not anticipated to affect construction or operation of the Facility.

### **3(f) Properties**

Figure 3-7 contains a map set showing details for each of the parcels associated with the Facility Site, and adjacent parcels located within the 1,000 feet study area. Property Classification Codes, as described above in section 3(d) of this exhibit also are shown on the map set. Table 3-4 summarizes each parcel's tax parcel identification, owner, and current land use. The complete list of adjacent parcels, owner, and land use is provided in Appendix 3-E. This information was obtained from the Niagara County Real Property Tax Services website (Niagara County no date). At the time the Town Comprehensive Plan (Appendix 3-A) was prepared, Somerset Station was still operational. At that time and as noted in Section 5 of the Comprehensive Plan Update (page 39), the Town's plan for the coal plant was to provide support for its continued operation: "*Efforts should continue to keep this important regional, State and national Energy provider and strategic Industry Sector in operation*" (Town of Somerset 2016).

The Lake Mariner Data Center is located within a portion of the former coal plant site and is located outside the Project Site as shown on Figure 15-6. In association with the Lake Mariner Data Center, Verizon is proposing to construct a new cell tower. The tentative location for the proposed cell tower is shown on Figure 20-1. Based on a review of publicly available information and the Applicant's stakeholder engagement efforts, including discussion with the Town, the Applicant is not aware of any other, new proposed land uses for the parcels. Correspondence with the Town did not identify any proposed change to the existing land uses for the Project Parcels or parcels located within 1,000 feet of the Facility Site, other than the Facility. Review of other publicly available information identified a 350 MW solar and 20 MW battery storage facility, Ridge View Solar, that is proposed by EDF Renewables in Hartland, New York, approximately 2.3 miles south of the Facility Site (Ridge View Solar no date) (Figure 3-6). According to the project's website, this facility is proposed to be operational in 2027. A list of all Project Parcels and parcels located within 1,000 feet of the Facility is provided in Appendix 3-E.

**Table 3-4. Project Parcels and Associated Land Use**

Location	PIN	Owner Name	Land Use Code
Facility Site	7.00-3-26	NYS Electric & Gas	800
Facility Site	7.00-3-28	Terroir Development, LLC	200
Facility Site	8.00-1-1.11	Somerset Operating Company, LLC	300
Facility Site	8.00-1-1.12	Somerset Operating Company, LLC	300
Facility Site	8.00-1-1.2	Somerset Operating Company, LLC	300
Facility Site	8.00-1-38	Somerset Operating Co. LLC	300

### 3(g) Zoning Districts

Existing and proposed zoning districts within a 5-mile study area of the Facility are shown on Figure 3-8 and summarized for the Town, Village of Barker, Town of Hartland and Town of Newfane in Appendix 3-G. As available in the zoning codes for these municipalities, Appendix 3-G describes the permitted and prohibited uses for each zoning district. The Town's Zoning Law was adopted in 1978, with amendments adopted in 1985 and 1996. Eight districts have been established in the Town, including Agricultural, Single-Family Residential, Single- and Two-Family Residential, Lake Shore Residential, Business, Industrial, General Industry<sup>2</sup>, and Planned Unit Development (PUD) (Appendix 3-G). Pursuant to §205-106 of the Town Zoning Code, utility-scale solar energy systems are only permitted by special permit in Agricultural, Industrial, and General Industry Districts. The Facility is sited on lands zoned as PUD (approximately 446.5 acres) and Agricultural (approximately 249.3 acres) (Figure 3-8). A copy of the Town Zoning Map is provided as Map 6 of the Town's Comprehensive Plan (Appendix 3-A).

The Agricultural District permits public utility uses by means of Special Use Permit application process per §205-26 of the Town Zoning Code. No prohibited uses are identified in the Town Zoning Code for the Agricultural District.

The PUD District is described as follows, per §205-53 of the Town Zoning Code:

*"It is the intent of the PUD District to provide flexibility and opportunity for the development of mixed uses in specific areas of the Town. Innovative design and creative use mixes are encouraged to offer the potential for a sustainable development that can provide the economic and service base consistent with the*

<sup>2</sup> The Town of Somerset Zoning Code identifies General Industry as one of eight zoning districts. No General Industry is identified on their zoning map (Figure 3-8).

*objectives of the Somerset Comprehensive Plan. In addition, the PUD District is intended to encourage imaginative ways of accommodating environmental considerations and conservation into the development plan to strike a balance of physical features, environmental responsibility and development opportunity. The PUD District is a "floating zone," which can be applied through a rezoning application, to a property or properties within the Town. The Town, in determining whether to allow the use of the PUD District, shall consider the Town's Comprehensive Plan and the objectives of this district."*

Permitted uses in the PUD District include:

- Principal and special permit uses and structures including farm-related activities and other activities as permitted in the RLS, R-2, B, I, and GI districts, or similar uses as determined by the Planning Board and related accessory uses.
- Accessory uses and structures as permitted in the RLS, R-2, B, GI and I districts.

Prohibited uses in the PUD District include:

- Uses that produce earth jarring, vibration or noise beyond the structure within which the use is contained.
- The storage, sale, distribution or use of hazardous materials or their by-products; or the storage of any material which would unreasonably increase the risk of fire hazard to adjoining buildings.
- Any use or process which would cause the emission of noxious odors or gases beyond the building, constituting a nuisance to adjacent structures or potentially injurious to nearby occupants or property.
- Activities which produce smoke, fly ash, dust, dirt, fumes or stack emissions that exceed NYS air quality regulations.
- Fugitive dust. There shall not be discharged locally from any operation on any lot: fly ash, dust, dirt, smoke, vapor or gas that results in an unsightly condition or could result in damage to the public health, animals or vegetation or that exceeds the approved regulatory standards of NYS or federal permitting agencies.
- Outdoor storage of junk, refuse, trash, secondhand materials or abandoned automobiles.
- Any industrial wind energy conversion system.

Discussions with the Town have indicated the Town does not have plans for the PUD District. A detailed analysis of how the Facility will comply with the Town's newly adopted Solar Energy

Systems Law (Solar Law) and siting of the Facility within the Town's PUD and Agricultural districts is discussed in detail in Exhibit 24.

On July 18, 2019, the Climate Leadership and Community Protection Act was signed into law. NYS's Climate Leadership and Community Protection Act is among the most ambitious climate laws in the world and requires New York to reduce economy-wide greenhouse gas emissions 40% by 2030 and no less than 85% by 2050 from 1990 levels. The Town's Comprehensive Plan states that PUD zoning district is intended to "encourage imaginative ways of accommodating environmental considerations and conservation into the development plan to strike a balance of physical features, environmental responsibility and development opportunity" (Town of Somerset 2016). Although the Town is identified on New York Department of Environmental Conservation's (NYSDEC's) website as having registered to become a participating community in NYS' Climate Smart Communities Program in 2010 (NYSDEC no date), discussions with the Town have indicated that they are not aware of this and that they currently do not plan to become certified. Should the Town decide to become a certified, participating community in NYS' Climate Smart Communities Program in the future, the Facility, once constructed, would directly support this program as it is expected to have a positive impact on the mitigation of future physical climate risks.

Environmental considerations and conservation have been incorporated into the Facility's design. The Facility has been sited to avoid, to the maximum extent practicable, floodplains, historic sites, airports, conservation easements, trails, and parklands. Several sites listed on the National Register of Historic Places are located in the vicinity of the Facility Site (see section 3(k) of this exhibit and Exhibit 9 for additional information). No special flood hazard areas, conservation easements, airports, or parklands occur within the Facility Site (Figure 3-9). Impacts to federal jurisdictional wetlands have been minimized (<0.1 acre of permanent impact) such that the Facility will qualify for coverage under a Nationwide Permit. The <0.01 acre of permanent impacts to Waters of the United States falls below the threshold that would necessitate submittal of a pre-construction notification (i.e., application) to the U.S. Army Corps of Engineers (Exhibit 14 and Figure 14-2). The Facility design has maximized use of open areas associated with the former coal plant industrial areas and agricultural fields, however, approximately 82.3 acres of forest clearing (tree/brush clearing and grubbing) and approximately 10.6 acres of selective tree/shrub cutting (for shading purposes) will be required. Section 3(k) of this exhibit discusses trails located in proximity to the Facility. Exhibit 14 provides further detail regarding Facility impacts to wetlands and wetland mitigation.



The Facility also will provide economic benefits to the Town and its residents and Niagara County, including capital investment, tax revenues, jobs during construction and operations, increased local spending, and electrical utility bill credits. Exhibit 18 provides more details on the anticipated socioeconomic benefits from the Facility. Exhibit 24 provides more detailed information on the local law and ordinances reviewed for the Facility and discussed with the Town.

### **3(h) Local Comprehensive Plan**

The Town Comprehensive Plan was first prepared in 1972 with updates occurring in 2003, 2012, and 2016. In 2012, the Comprehensive Plan was updated based on multiple critical issues, including the pending bankruptcy of the Somerset Station. The 2016 Comprehensive Plan Update provides guidance for policy makers regarding the preference for development and other activities in the Town through the following goals and objectives (see Appendix 3-A for more details). The Comprehensive Plan further describes how each goal and objective should be met or maintained in Section III-Goals and Objectives (page 22 of 2016 Comprehensive Plan Update) and are listed in order of importance.

1. Maintain the rural and agricultural characters of the Town.
2. Protect important environmental resources from adverse effects.
3. Create a vital and sustainable economy for the Town that provides a strong tax base and jobs for citizens.
4. Achieve a pattern of development which minimizes travel time, adheres to smart growth principles, and establishes a high standard of design.
5. Meet the housing needs of the community by providing for a variety of choices in new housing and by encouraging the improvement of existing housing.
6. Provide high quality community facilities and services at an acceptable cost to the local taxpayer.
7. Provide for the future movement of traffic through the Town in a safe and efficient manner.

The Comprehensive Plan states that the vision of the Town is to maintain its character as a primarily agricultural, residential, and rural community. The Facility would be consistent with the Comprehensive Plan's Goal and Objective #1 by preserving the Town's agricultural characteristics due to the proposed location of solar panels and related equipment in a previously industrialized area, through repurposing of the industrial area associated with the former coal

plant for renewable energy generation. Areas currently occupied by the former coal plant, such as SWDA II and the coal pile area, have been determined to be suitable for solar panels, as the land is not suitable for agriculture. While a portion of the Facility Site will require removal of agricultural areas from operation, these impacts are temporary considering that one of the benefits of solar generating facilities is that the impact to the land is minor, and after the useful life of the Facility (35 years), the land can be converted back to its original agricultural state, should the landowner choose to do so. Rural aesthetics of the Town will be preserved by adhering to Town planning and zoning documents.

The Facility is consistent with the Comprehensive Plan's Goal and Objective #2 as careful siting and design has resulted in a layout that avoids impacts to natural resources to the greatest extent practicable. The Facility design has maximized use of previously disturbed, industrial lands and open agricultural fields, resulting in use of approximately 39% of the total lands available within the Project Parcels. As described in Exhibit 14, wetland impacts have been minimized to <0.01 acres of permanent impact. No impacts to surface waters are anticipated (Exhibit 13). Take of wintering habitat for northern harrier (*Circus hudsonius*), as identified by ORES, is associated, in part, with the SWDA I landfill area, where the northern harrier was observed foraging outside the Facility Site. As described in Exhibit 12, impacts to northern harrier wintering habitat will be mitigated through an ORES-approved Net Conservation Benefit Plan and conservation of 25 acres of wintering habitat for the species for 30 years (representing six 5-year successional cycles). The greatest environmental impact that will result from the Facility is associated with permanent impact to forest habitat, totaling approximately 82.3 acres (Exhibit 11). To balance avoidance of environmental impacts (to jurisdictional wetlands and water resources, and their buffers) with the goal of designing the 125 MW Facility, these forest impacts were determined to be unavoidable.

The Facility is consistent with the Comprehensive Plan's Goal and Objective #3 as summarized above in section 3(h) and detailed in Exhibit 18, as development of the Facility will provide capital investment, tax revenues, jobs during construction and operations, increased local spending, and electrical utility bill credits.

Development of the Facility is not directly related to the Comprehensive Plan's Goal and Objective #4, #5, #6, as it will not affect the pattern of development within the Town, is not associated with housing, and would not provide community facilities and services. The Facility is anticipated to be consistent with the Comprehensive Plan's Goal and Objective #7, as construction-related traffic may cause periodic travel delays; however, due to the multiple access points for each of the 10

development areas, these are not expected to be significant, and would only occur over the short-term during the construction period. Limited vehicle traffic to the Facility Site would be required once it is operational.

The Comprehensive Plan states that the Town's Solar Law, which was adopted in March 2022 (after the current version of the Comprehensive Plan), provides more clarity for solar energy generating facilities within the Town. No restrictions for lands located within the Facility Site are described in the Comprehensive Plan. The Town's Comprehensive Plan is provided as Appendix 3-A and further detailed in section 3(h) of this exhibit.

A detailed analysis of how the Facility will comply with the Town's newly adopted Solar Law is provided in Exhibit 24. Solar electric generating facilities generate little noise. During construction activities, traffic in the general area of the Facility will increase slightly, however this will be temporary and limited to the construction period, and little to no impact on local traffic will be made by the Facility during operation. For a descriptive summary on the potential impacts of noise, visual, and transportation effects to the surrounding areas see Exhibits 7, 8, and 16.

### **3(i) Proposed Land Uses**

Based on discussions with the Town and from comments received during the course of multiple open house meetings with the local public, the Applicant did not identify any publicly known proposed land uses within the 5-mile study area. However, based on a review of other publicly available information completed for this Application, a 350 MW solar and 20 MW battery storage facility, Ridge View Solar, that is proposed by EDF Renewables in the Town of Hartland, New York, was identified for an area located approximately 2.3 miles south of the Facility Site (Ridge View Solar no date) (Figure 3-6). It is anticipated that this proposed project would be permitted through a similar §94-c application and subject to ORES review and approval.

### **3(j) Coastal Areas, Agricultural Districts, and Other Protected Areas**

Figure 3-9 shows special designation areas such as agricultural districts, water resource areas, critical environmental areas, and flood-prone zones. This figure was prepared using the New York State Department of Agriculture and Markets (NYSAGM) Agricultural Districts Mapping for Niagara County (NYSAGM 2019), NYSDEC public data sets (NYSDEC 2019), cemetery locations from Environmental Systems Research Institute (Environmental Systems Research Institute 2016), protected areas from the Protected Areas Database developed by the USGS (2019), data from the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FEMA 2019), and data from the United States Department of Agriculture Natural Resources Conservation Service (2019). Figure 3-10 shows the Lake Ontario Coastal Erosion Risk Areas

that were developed using USGS and the New York Office of Planning and Development Geographic Information Gateway data (New York Office of Planning and Development 2020). The highest coastal erosional risk category can be found on the coast, similar to the FEMA special hazard floodplain area (Figure 3-9), and in areas along Fish Creek. Approximately 22% of the Facility Site is located within High or Extreme Erosion Risk areas, including approximately 134.9 acres having High Risk and approximately 19.5 acres having Extreme Risk. The Facility layout has taken these risk areas into consideration when designing the grading plans (Appendix 5-A, Sheets PV-C.03.01–PV-C.03.10) and through incorporation of appropriate erosion and sediment controls (Appendix 5-A, Sheets PV-C.04.01–PV-C.04.10).

According to the Town Comprehensive Plan, Vision Map, the northeastern-most corner of the Facility Site falls within the Town's Waterfront Protection Area. The Facility is located within a NYS designated coastal area and is therefore subject to the NYS Coastal Management Program and the Town's Local Waterfront Revitalization Program (LWRP) adopted on August 9, 2005. Section 3(o) of this exhibit provides more information on these programs. The landward coastal area boundary for the area is provided on Figure 3-9 which shows that all of the Facility Site area located north of NYS Route 18/Lake Road, and a small portion of the Facility Site located south of NYS Route 18/Lake Road is located within NYS' coastal zone. To facilitate ORES' review and coordination with the NYS Department of State for coastal consistency, a review of the proposed Facility against NYS' 44 coastal zone policies and the Town's LWRP is provided in Appendix 3-F. The Coastal Assessment Form and Waterfront Assessment Form consistency tables provided in Appendix 3-F are being provided solely to facilitate ORES's review.

Farmland within the Facility currently consists of row crops (primarily corn and soybeans) and hay. While the Facility will disturb and displace agricultural uses throughout the operational life of the Facility, the Facility will be substantially restored to pre-construction conditions upon decommissioning so that agricultural uses may resume following the Facility's useful life (see Exhibit 23). Mitigation measures, such as pile-driven panel racking (except where prohibited in the landfill and coal storage areas of the site, where ballast foundations will be used), stormwater control measures, and native ground cover, will be used in order to expedite land restoration following conclusion of Facility operation.

There are no NYSDEC Critical Environmental Areas or mapped primary aquifers located within the 5-mile study area. A geotechnical investigation (described in Exhibit 10 and provided as Appendix 10-A), was conducted to identify potential effects to geology, seismology and soils from

construction of the Facility. The geotechnical investigation concluded that the Facility Site is suitable for the construction and operation of the Facility.

The entirety of the Facility Site is located within the 0.2% annual chance flood hazard area (Zone X), as defined by FEMA (FEMA 2019) (Figure 3-9). This area is defined as a moderate to low risk from flood events.

### **3(k) Recreational and Other Land Uses**

Figure 3-9 identifies recreation and other land uses within the 5-mile study area that may be affected by the sight or sound of the construction or operation of the Facility, including Facility interconnections and related facilities. Figure 3-9 reflects the results of the review for wild, scenic, and recreational river corridors; open space; and any known archaeological, geologic, historical or scenic area park, designated wilderness, forest preserve lands, NYS Parks, NYSDEC lands, trails, and public-access fishing areas; or institutional, community, and municipal uses and facilities. Figure 20-1 provides an overview of major communication and utility uses and infrastructure located within 1-mile of the Facility.

The Babcock House is located on the Project Parcels, but outside the Facility Site, and is listed as a National Register of Historic Places site. Six other National Register of Historic Places sites and four cemeteries are located within a 5-mile radius of the Facility. Somerset Town Park is located approximately 1.3 miles southeast of the Facility Site. Niagara County Krull Park is located approximately 4.2 miles west of the Facility. The Great Lakes Seaway Trail is located along NYS Route 18/Lake Road that crosses the Facility Site in an east-west direction. Other areas mapped within 5-miles of the Facility include Golden Hill State Park, a municipal and a local park, a wildlife management area, two Wetlands Reserve Program areas, mapped significant coastal fish and wildlife habitat, portions of an unconsolidated aquifer, several mapped areas that potentially contain rare plants and/or animals, and a public fishing access area (Figure 3-9). The public fishing access areas and significant coastal fish and wildlife habitat are located along the western-most edge of the 5-mile study area boundary, within the polygon identified for potential presence of rare plants and/or animals.

Potential impacts to each of the sensitive land uses within the 5-mile study area have been evaluated and avoided to the maximum extent practicable. Scaled maps that show these designated areas, recreational, and other sensitive land uses are evaluated in detail in Exhibit 8 and the Visual Impact Assessment (Appendix 8-A). The Visual Impact Assessment assesses potential visual impacts of the Facility within 2 miles of the boundaries of the Facility (the Visual Study Area). Local, state, and federal sensitive visual resource areas were investigated per 16

NYCRR §1001.24. An inventory of publicly available and accessible visual resources was explored through the acquisition of GIS data, review of Town, County, and agency reports, topographic data, and site visits. Visual resources within 2 miles of the Facility are listed in Appendix 8-A, Table 2.

Protected resources mapped within the 5-mile study area for the Facility will not be impacted by construction or operation activities. Additionally, no impacts or increased demands are expected to community services and municipal uses in the 5-mile study area as the Facility Site consists of primarily of agricultural, disturbed, and forested land. There are no expected impacts to these areas aside from potential minimal and temporary traffic associated with the construction phase.

### **3(l) Compatibility of Facility**

The Facility is anticipated to create minimal noise, visual, and transportation effects to the surrounding area. The Facility will not result in any odor effects to the surrounding area. As summarized in this exhibit, correspondence with NYS and local officials, and the ongoing community outreach efforts, have not identified any proposed change to the existing land uses within the 5-mile study area. The Applicant is not aware of any proposed land uses within the 5-mile study area that Facility construction and/or operation may negatively impact.

The Facility Site currently consists of active agricultural land, undeveloped lands, and land formerly occupied by accessory activities associated with the former coal plant. The proposed Facility will serve as a beneficial reuse of the existing infrastructure of the former coal plant, through repurposing this industrial site for renewable energy generation. The Facility will connect to the existing Kintigh Substation, located adjacent to the Facility Site.

As described in section 3(h) of this exhibit, the Facility is located entirely within the Town and is consistent with the Town Comprehensive Plan as it is a clean, efficient source of renewable energy.

### **3(m) Compatibility of Above-ground Equipment**

#### ***(1) Above-ground Transmission Lines***

The Facility Substation is immediately adjacent to the existing Kintigh Substation (POI) and NYSEG transmission line right-of-way. The connection of the Facility Substation to the Kintigh Substation will be via an approximately 159-foot overhead 345-kV transmission line (Appendix 5-B, Sheets TL-P.00.01 and TL-P.01.01). The Kintigh Substation will transfer the power generated by the Facility to the regional electric grid via NYSEG's 345-

kV Rochester to Somerset transmission line, located in an existing overhead transmission line corridor. The above-ground transmission lines associated with the Facility Substation connection to the Kintigh Substation will be of the same height or shorter than the existing above-ground structures currently supporting the existing electrical transmission line (Exhibit 21). Therefore, the proposed above-ground transmission line is compatible with the existing improvements in the area.

### ***(2) Above-ground Collection Lines***

Electrical collection lines associated with the Facility will primarily be underground, with the exception of areas where electrical lines are sited on the existing landfill and coal storage pile areas (Appendix 5-A, Sheets PV-C.02.08 and PV-C.02.09). Underground electrical collection lines total approximately 66,160 feet. The collection lines that are above-ground total approximately 4,502 feet and will be located on cable sleeper trays in the areas where ground disturbance will be avoided to protect the groundwater protection liners located beneath the coal pile and SWDA II areas. Therefore, the proposed above-ground collection lines are compatible with the existing improvements in the area.

### ***(3) Interconnection and Related Facilities***

The Facility interconnection and Facility Substation are all located immediately adjacent to the NYSEG existing 345-kV Kintigh Substation within the Project Parcels. No interconnection facilities are proposed for the Facility outside the Project Parcels. The proposed POI for the Facility is NYSEG's existing 345-kV Kintigh Substation, which is located immediately east of the Facility Substation. The Facility will connect to the Kintigh Substation via a new overhead 345-kV gen-tie transmission line interconnection line, extending approximately 159 feet between the two Facilities. All Facility interconnections, electrical and stormwater features<sup>3</sup> are proposed within the boundary of the Facility Site (Figure 3-2 and Figure 20-1).

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<sup>3</sup> Appendix 5-A, Sheet PV-C.02.06 identifies an area where the filter strip is located outside the limit of disturbance. An existing forested area is proposed to be used to function as a 35-foot wide grassed filter strip. No additional tree/shrub clearing is required along the road, and no ground disturbance or construction activities will occur outside the limit of disturbance in this area.

### **3(n) Compatibility of Underground Equipment**

As diagramed in Figure 3-2 and shown in further detail in Exhibit 5 (Appendix 5-A, Sheet PV-C-02.00), the Facility's underground electrical trenches will be limited to within the boundaries of the Facility Site and will not encroach on the land uses associated with adjacent and surrounding parcels. The Facility Substation transmission lines connecting to the POI, and minor segments of the collection system (within landfill and coal pile storage areas) will not be underground (Figure 3-2).

The HDD crossings of public roadways for underground installation of electrical collection lines (Figure 20-1 and Appendix 5-A, Sheets PV-C.04.01–PV-C.04.10) are required to connect the northern and southern portions of the Facility Site. The existing land uses for all properties within the Facility 5-mile study area are described in section 3(d) of this exhibit and are shown in Figure 3-5. Land uses within 300 feet of the Facility include Vacant Land (300), Residential (200), Agriculture (100), Public Services (800), Community Service (600) and Unknown (0). None of the identified existing land uses within 300 feet of the Facility are incompatible with the underground electrical collection lines as proposed for the Facility. Nor are there any proposed or potential land uses within 300 feet of the Facility, to the greatest extent known to the Applicant, which would be incompatible with the underground collection lines as proposed in the Facility. Consequently, the underground collection network is deemed an appropriate land use in the area it is proposed. As noted above, the total length of underground collection lines is approximately 66,160 feet.

### **3(o) Coastal and National Oceanographic and Atmospheric Administration Areas**

The Facility is located within a NYS designated coastal area and is therefore subject to the NYS Coastal Management Program and the Town's LWRP adopted on August 9, 2005. According to the LWRP, the former Somerset Station comprises a small percentage of the LWRP study area (estimated as less than 5%). Land use within the LWRP is controlled by the Town Zoning Code. The Facility has been designed to conform with the Town's LWRP policies that are summarized in Table 3-5. A copy of the LWRP is provided in Appendix 3-B and consistency with the program policies identified in Table 3-5 are included in Appendix 3-F. The Coastal Assessment Form and Waterfront Assessment Form Consistency tables provided in Appendix 3-F are being provided solely to facilitate ORES's review.



**Table 3-5. Local Waterfront Revitalization Program Policies**

<b>LWRP Policies</b>		
Policy 1	Developed Waterfront Policies	Foster a pattern of development in the coastal area that enhances community character, preserves open spaces, makes efficient use of infrastructure, makes beneficial use of a waterfront location, and minimizes adverse effects of development
Policy 2		Preserve historic resources
Policy 3		Enhance visual quality and protect outstanding scenic resources
Policy 4	Natural Waterfront Policies	Minimize loss of life, structures, and natural resources from flooding and erosion
Policy 5		Protect and improve water resources
Policy 6		Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities
Policy 7		Protect and improve air quality
Policy 8		Minimize environmental degradation from solid waste and hazardous substances and wastes
Policy 9	Public Waterfront Policy	Improve public access to and use of public lands and waters.
Policy 10	Working Waterfront Policies	Protect water-dependent uses, promote siting of new water dependent uses in suitable location, and support efficient harbor operation
Policy 11		Promote sustainable use of fish and wildlife resources
Policy 12		Protect agricultural land in the Somerset LWRP study area
Policy 13		Promote appropriate use and development

The Applicant anticipates the Facility will not produce air or water pollution, odors, and would produce minimal noise during construction and operation. The Facility impacts are not anticipated to impact the adjacent coastal area. The landward coastal area boundary for Lake Ontario includes all of the Facility Site area located north of NYS Route 18/Lake Road and a small portion of the Facility Site located south of NYS Route 18/Lake Road (Figure 3-9). Approximately 18 acres of the Facility Site is located within the Town's LWRP (Figure 3-9). The Facility is not anticipated to impact this LWRP as the portion of the Facility within it is part of the former Somerset Station which was considered as part of the existing land uses for the PUD zoning district at the time the LWRP was developed. Development of the Facility supports LWRP Developed Waterfront Policies, including Policy 13:

- LWRP Policy 13 – Promote appropriate use and development of energy and mineral resources.

- LWRP Policy 13.2 – Promote alternative energy resources that are self-sustaining, including solar and wind powered energy generation.
- LWRP Policy – Ensure maximum efficiency and minimum adverse environmental impact be considered when siting major energy generating facilities (Section III, page 43) (Town of Somerset 2005).

As designed, the Facility directly supports the renewable energy and solar development policies outlined in the LWRP. The Facility will repurpose the fossil fuel energy facility to generate energy from a renewable resource and has been designed and situated to minimally disturb the surrounding natural resources and have low impact on the natural community. Discussions with the Town to date have not identified any concerns related to the minor amount of the Facility (approximately 18 acres) located within the LWRP.

### **3(p) Aerial Photographs**

Figure 3-11 provides a map set on aerial photography for properties located within the 5-mile study area. The Applicant is aware of some material changes to natural and cultural features that have occurred since the aerial photographs were taken, including recent decommissioning activities that have occurred on the former coal plant site to remove structures and facilities (i.e., buildings and support structures and the rail line), activities on the SWDA II landfill to prepare it for closure and final grading plans, and construction of a small solar array west of the Barker Central School District complex on Haight Road (Figure 3-6).

### **3(q) Aerial Photograph Overlays**

Figure 3-11 provides a map set on aerial photography overlaid with proposed Facility facilities to show the relationship with existing structures and vegetation cover types. Figure 3-11 also overlays the proposed Facility facilities, and limits of clearing at a larger scale with additional detail. Details for Facility grading plans are shown in Appendix 5-A, Sheets PV-C.03.01–PV-C.03.10.

### **3(r) Current Land Use**

Figure 3-11 provides a map set on aerial photography that reflects current land uses within the Facility Site. Photographs include the date the photo was taken, and the Applicant believes these photographs best capture the current land use of the Facility Site.

### **3(s) Community Character of the Study Area**

The Facility is located in western NYS, along the southern shore of Lake Ontario and will be located entirely within the Town of Somerset as shown on the figures included in this exhibit. The

Facility location is characterized as a rural waterfront town, located near the outer limits of the Buffalo-Niagara Metropolitan Area (Town of Somerset 2016). The Facility region has rolling topography containing row crop agricultural fields, undeveloped forested areas, and several light industrial businesses.

The Applicant has been coordinating planning of the Facility with the Town and local stakeholders to identify specific characteristics of the community that are of particular importance in the region. Land within the Town includes a mix of industrial, agricultural, rural residential, and sparsely forested areas. While the 5-mile study area occupies 40,347 acres, the amount of topical land used for the Facility components is minimal (696 acres; 1.7% of 5-mile study area) in comparison, thus the Facility will have little impact on existing land uses in the study area. Reuse of portions of former coal plant, by transitioning industrial land uses to renewable energy land uses will be in alignment with the Town's Comprehensive Plan and desired development benefits while also providing the added benefit of effectively repurposing an industrialized area that is not suitable for most other recreational or commercial uses. The primary potential effects will be during construction, which is temporary and mitigation measures, described in the Facility's preliminary Stormwater Pollution Prevention Plan, will be employed to minimize impacts relating primarily to fugitive dust and noise (Appendix 13-C). Cultural land uses associated with the Babcock House on the Project Site can continue uninterrupted as usual, with consideration of the timing of annual community events coordinated with construction activities to ensure traffic and access to the Babcock House property is not impacted during the few times a year in which these activities are planned. Current land uses in proximity to the Facility, including residential, agricultural and area businesses, also can continue uninterrupted as usual.

Through a review of the Town Zoning ordinance, the Town's Comprehensive Plan and LWRP, and through the Facility's Community Engagement Plan, the community character of the area was assessed. Community character includes defining features and interactions of the natural, social, and built environment, and how those features are used and appreciated in the community. The Applicant has taken these three aspects into account and consulted with local municipalities, landowners, and stakeholders to identify specific characteristics of the community that are of particular importance to the region.

The natural environment includes agricultural land, forested land, conservation lands, public parks, and water resources in the area. Approximately 82.3 acres of forested land will be cleared and grubbed within the Facility Site, which is approximately 11.8 percent of the total 696-acre Facility Site. The Applicant has conducted outreach with landowners and determined that none

of the related Facility Site parcels are currently enrolled in the 480a Forest Tax Law Program. Furthermore, approximately 4 acres of vegetative screening will be planted, partially offsetting the impact to forested land. The proposed vegetative screening contains native trees and shrubs (Appendix 5-A, Sheets PV-C.05.01–PV-C.05.04). Facility components were sited with existing open areas, included portions of the former coal plant site and agricultural fields, to the maximum extent practicable to prevent wildlife habitat loss including clearing of forest habitat. Approximately 368 acres of agricultural land<sup>4</sup> will be used for the Facility. This land will be used during the economic life of the Facility. Thereafter, the land will be restored to its existing condition and will be available to be reclaimed for agricultural use after the Facility is decommissioned, limiting the impacts to this land type.

There are no public parks, conservation lands, National Conservation Easements, or Natural Resource Conservation Service federal conservation easements within the Facility Site, or within close proximity to the Facility Site. There will not be a significant impact to the natural environment outside the Facility Site, as the only impact outside the Facility Site will be from limited and temporary construction traffic. The water resources in the Facility Site include delineated wetlands and streams, which have been avoided to the maximum extent practicable when siting Facility components as discussed in Exhibit 14. The Facility will not impact local water resources, including Lake Ontario located due north of the Facility Site, or Fish Creek location within and adjacent to the Facility Site. The Applicant has prepared a preliminary Stormwater Pollution Prevention Plan for the Facility to protect local water resources and is designed to prevent runoff from entering the local streams, wetlands, and Lake Ontario during construction (Appendix 13-C).

The majority of the social environment surrounding the Facility Site is located within the center of the Village of Barker, located approximately 1.5 mile southeast of the Facility Site (Figure 3-8). The social environment includes developed areas that encompass local businesses and shops, the local library, town hall, volunteer fire department, religious centers, and public parks (David Barker Park is located within the Village of Barker and Bicentennial Park is located along the shoreline of Lake Ontario in the Town). The Barker Central School District is a focal point of the Village of Barker. During discussions with the Town regarding the Facility, the Applicant confirmed that construction of the Facility, including construction traffic, would not require travelling along the route where the school district is located, on Haight Road approximately 1 mile southeast of

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<sup>4</sup> Based on field-verification estimates of land cover types.

the closest point of the Facility Site. The center of the Village of Barker and Barker Central School District areas contain the greatest concentration of the built environment, including the social buildings and services described above and additional commercial areas, public utilities, public service land, and residential buildings. It is anticipated that these built areas will not be impacted from the Facility, aside from the temporary and minimal traffic that will be temporary and limited to the construction period. Aside from a temporary increase in traffic and some construction noise during the construction phase, the Facility will have minimal impacts to the social environment because the Facility has been sited primarily on lands associated with the former coal plant and agricultural lands, which are located at least 1 mile from these environments.

Finally, the Facility components have been sited at least 250 feet away from the nearest non-participating occupied residence and 50 feet from any public or private right-of-way to limit any impact. The primary potential impacts considered for residential land is Facility visibility, which is thoroughly discussed in Exhibit 8; and Facility noise, which is discussed in detail in Exhibit 7. To mitigate for these potential impacts, the Applicant has prepared a Landscape Plan (Appendix 5-A, Sheets PV-C.05.01–PV-C.05.04) and incorporated noise barriers into the design layout (Appendix 5-A, Sheet PV-C.02.05 and Appendix 5-B, Sheets HV-P.01.01 and HV-P.02.01).

In summary, the Applicant recognizes that natural, social, and built environments all contribute to the rural community character of the Town and Village of Barker areas. Avoidance, minimization, and mitigation measures that were used in Facility siting are directly related to the community character of the area. The Applicant intends to protect this character through the careful design and siting of the Facility, as well as continuing community engagement and local outreach throughout the Facility planning and development processes. The Facility is not anticipated to negatively impact the current character of the nearby land uses, including cultural, agricultural, residential, and commercial, all of which can continue as usual outside of the Project Site.

### **3(t) History of Environmental Contamination**

As defined by §94-c regulations §900-1.2 portions of the Facility Site north of NYS Route 18/Lake Road are considered a repurposed site. Construction of the Facility includes repurposing of a decommissioned industrial site, which has been previously disturbed, a dormant electric generating plant (Somerset Station), and portions of a landfill. The Somerset Station plant is anticipated to be decommissioned with associated infrastructure removed in 2023 and remediated prior to initiating construction activities (Appendix 6-C).

A Phase I Environmental Site Assessment (ESA) and Phase II ESA were completed for the former coal plant area in March 2023. A copy of the Phase I and Phase II ESAs, including results of the assessments, are provided in Appendix 3-D.

The Facility Site is partially located on the grounds of the former Somerset Station coal-fired power plant, which was constructed in the early 1980s and began operation in 1984. The plant was owned and operated by NYSEG until 1999, and by AES Eastern Energy from 1999 to 2016. Beowulf Energy, LLC purchased the plant in 2016 (Global Energy Monitor Wiki 2022). The plant ceased power production activities in March 2020. Demolition and removal of former coal plant structures are the responsibility of the coal plant landowners, and these activities are ongoing. The Applicant understands these activities are expected to be completed prior to initiation of Facility construction. A majority of the facilities that are part of the former coal plant that have been or will be demolished are located outside the Facility Site, with the exception of stormwater facilities that are proposed for reuse and the railroad bed that formerly contained the rail line that provided access to the former coal plant for deliveries. Portions of the railroad that are located on the former coal plant and Facility Site have been removed, and any stockpiled materials associated with the former rail line that currently remain, are anticipated to be removed from the Project Site prior to initiation of Facility construction (J. Marabella, personal communication 2023). The existing coal storage pile and SWDA II landfill will remain and will be used for siting of layout components, including panel arrays.

The former coal plant and portions of the Project Parcels are located north of NYS Route 18/Lake Road and south of Lake Ontario, and formerly included power plant buildings, coal storage and handling areas, and railroads for transporting coal and limestone. The plant operated a boiler and air pollution control systems. Coal was burned in a dry bottom boiler to generate steam and power the turbine. Air pollution control systems included dry-type electrostatic precipitator, trona (dry sorbent) duct injection, flue gas desulfurization, and selective catalytic reduction. Areas of the former coal plant site that remain, include solid waste disposal areas SWDA I and SWDA II, a coal storage pile, stormwater management ponds and access roads. The former coal storage handling areas, coal storage pile, SWDA II, portions of the stormwater management facilities, and several access roads are located within the Facility Site and are included in the areas that will be repurposed for solar energy generation. The Facility Site does not include the areas that housed the former energy generating turbines or a majority of the built structures associated with the inactive plant.

The plant maintained two solid waste disposal areas (SWDA I and SWDA II) (Figure 3-11, Maps 6 and 7) which formerly received waste coal combustion residuals and related plant-generated solid waste. SWDA I adjoins the Facility Site to the north and is closed and capped with a final cover system. SWDA II is located south of SWDA I within the northeastern portion of the Facility Site. SWDA II is currently operating; it is scheduled for closure with a final cover system in 2023 (Appendix 6-D). A third solid waste disposal area, SWDA III, is located within the Facility Site; however, this landfill (SWDA III) was never constructed (due to decommissioning of the coal plant) and is not an environmental concern.

The power plant operated a wastewater treatment plant. Treated wastewater was reused or discharged to Lake Ontario and Fish Creek under a State Pollutant Discharge Elimination System permit. Wastewater treatment sludge and non-municipal solid waste generated at the plant was permitted for disposal in landfills SWDA I and SWDA II.

Former structures that historically contained petroleum products and hazardous materials, including diesel underground storage tanks, and petroleum above-ground storage tanks, are downgradient of the proposed Facility.

### ***(1) Phase I and Phase II Environmental Site Assessments***

A Phase I ESA and Phase II ESA were prepared for the former coal plant area in March 2023, and a copy of these reports are provided in Appendix 3-D. A determination by a qualified Licensed Professional Engineer, on the basis of the 2023 Phase I ESA and Phase II ESA completed for the former coal plant portion of the Facility, this area is not anticipated to contain hazardous substances that would be encountered during construction and/or operation of the Facility.

### **3(u) Oil, Gas, or Mining Solution Wells**

Historic oil well leases were established in 1891 on portions of the Project Parcels as shown on Figure 4-1; however, further review of available records and field reviews indicate these lease agreements expired in 1901 and no oil wells were ever formally installed on the Project Site. This is supported by the results of the Magnetometer Survey and information received from the Project Parcel landowners. Results from the Magnetometer Survey conducted between June 15-25, 2022 for the Project Site shows 18 anomalies from the initial analytic signal grid data, with only one location containing a possible water monitoring or oil well. Exact locations of the surveyed findings as well as field photography from the Magnetometer Survey can be found in Appendix 3-C. This well was confirmed to be a groundwater monitoring well that is part of the network of wells that

## EXHIBIT 3

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are routinely monitored as required for the former coal plant (J. Marabella, personal communication 2022). Figure 13-1 identifies the approximate location of the groundwater monitoring wells within the Facility Site. For those wells located within the LOD, a 5-foot buffer has been established around the wells (Appendix 5-A, Sheets PV-C.02.01–PV-C.02.10) to ensure access as part of the ongoing groundwater monitoring program (Exhibit 13 contains additional details on this program). The existing network of groundwater monitoring wells located within the LOD and the former coal plant are not anticipated to be impacted from the construction of the Facility.



## References

- Environmental Systems Research Institute. 2016. U.S. Geographic Names Information System Cemeteries.
- Federal Emergency Management Agency (FEMA). 2019. Flood Insurance Rate Maps. Available online at: <http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=246>. Accessed August 2022.
- Global Energy Monitor Wiki. 2022. Somerset Generation Plant. Available online at: [Somerset Generation Plant - Global Energy Monitor \(gem.wiki\)](https://www.gem.wiki/Somerset-Generation-Plant). Accessed January 8, 2023.
- Marabella, J. 2022. Personal communication via email between John Marabella (Terroir Development LLC and Somerset Operating Company, LLC) and Linda Rivard (Tetra Tech, Inc.) on October 7, 2022 related to well identified during magnetometer survey of the former coal plant site.
- Marabella, J. 2023. Personal communication between John Marabella (Terroir Development LLC and Somerset Operating Company, LLC) and Linda Rivard (Tetra Tech, Inc.) on February 2, 2023 related to status of ongoing demolition activities at the former coal plant site.
- New York Office of Planning and Development. 2020. Risk Areas Lake Ontario. November 5, 2020. Available online at: <http://opdgis.dos.ny.gov/arcgis/rest/services/NYOPDIG/REDI/MapServer/7>. Accessed January 2023.
- New York State Department of Agriculture and Markets (NYSAGM). 2019. Agricultural Districts Mapping for Niagara County. Available online at: <https://cugir.library.cornell.edu/catalog/cugir-007974>. Access August 2022.
- New York State Department of Environmental Conservation (NYSDEC). No date. Climate Smart Communities, Somerset, Town (Niagara) Profile. Available online at: [Municipality Detail \(ny.gov\)](https://www.nysdec.gov/municipality-detail). Accessed January 8, 2023.
- NYSDEC. 2019. Public data sets. Available online at: <http://gis.ny.gov/gisdata/inventories/member.cfm?organizationID=529>. Accessed August 2022.
- Niagara County. No date. Real Property Tax Services. GIS/Digital Maps. Available online at: <https://niagara-county.maps.arcgis.com/apps/webappviewer/index.html?id=b5be67cf0e05477e8f4ad3161ab51422>. Accessed August 4, 2022.
- Ridge View Solar. No date. About Ridge View Solar + Storage Project. EDF Renewables. Available online at: [About - Ridge View Solar](https://www.edf.com/en/about-us/our-projects/ridge-view-solar). Accessed January 8, 2023.
- Town of Somerset. 2005. Town of Somerset Local Waterfront Revitalization Program. Adopted by the Town Board on August 9, 2005. Approved by Acting NYS Secretary of State Frank P. Milano, December 13, 2005. Concurrence received from U.S. Office of Ocean and Coastal Resource Management, November 2, 2007. 164 pp.
- Town of Somerset. 2016. 2016 Comprehensive Plan Update. Available online at: <https://www.somersetny.org/master-plans>. Accessed August 4, 2022.
- United States Department of Agriculture, Natural Resources Conservation Service. 2019. Web Soil Survey. Available online at:

## EXHIBIT 3

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<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed August 2022.

United States Geological Survey (USGS). 2019. Protected Areas Database (PAD). Available online at: <https://usgs.gov/gapanalysis/PAD-US/>. Accessed August 2022.