



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New York Ecological Services Field Office

3817 Luker Road

Cortland, NY 13045-9385

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo/es/section7.htm>



In Reply Refer To:

November 17, 2020

Consultation Code: 05E1NY00-2021-SLI-0478

Event Code: 05E1NY00-2021-E-01454

Project Name: South Ripley Solar

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This list can also be used to determine whether listed species may be present for projects without federal agency involvement. New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list.

Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list. If listed, proposed, or candidate species were identified as potentially occurring in the project area, coordination with our office is encouraged. Information on the steps involved with assessing potential impacts from projects can be found at: <http://www.fws.gov/northeast/nyfo/es/section7.htm>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (<http://www.fws.gov/windenergy/>

[eagle\\_guidance.html](#)). Additionally, wind energy projects should follow the Services wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

# Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**New York Ecological Services Field Office**

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

## Project Summary

Consultation Code: 05E1NY00-2021-SLI-0478

Event Code: 05E1NY00-2021-E-01454

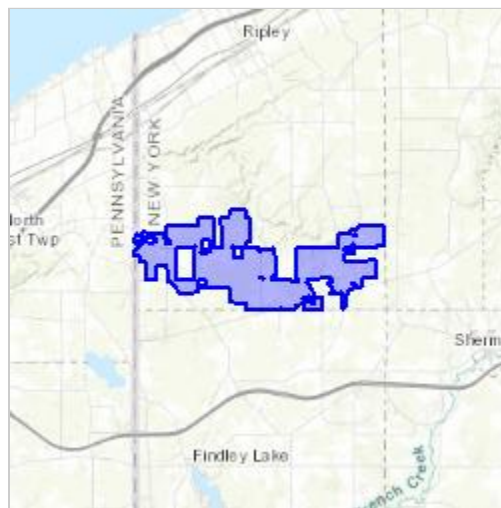
Project Name: South Ripley Solar

Project Type: POWER GENERATION

Project Description: An up to 177 MW solar energy generating facility in the Town of South Ripley, Chautauqua County, New York.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/42.190996927097544N79.7148548142037W>



Counties: Chautauqua, NY

## Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

April 28, 2020

Ms. Andrea Chaloux  
Environmental Review Specialist  
New York Natural Heritage Program  
*Submitted electronically to: [NaturalHeritage@dec.ny.gov](mailto:NaturalHeritage@dec.ny.gov)*

**RE: South Ripley Solar Project  
EDR Project No. 19020**

Dear Ms. Chaloux:

Environmental Design and Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR) submitted a request for ecological information for a proposed utility-scale solar project in the Town of Ripley, Chautauqua County, New York on August 21, 2019 and received the New York Natural Heritage Program's response on September 15, 2019.

The proposed Facility has since been revised and EDR is compiling updated ecological information. Please accept this request for new or updated information regarding documented rare, threatened or endangered species, and/or significant natural communities in the vicinity of this project. I have enclosed a map of the proposed Facility Area, which is located within the South Ripley USGS 7.5-Minute quadrangle.

If you have any questions regarding this data request or require additional information, please contact me at [w Whipps@edrdpc.com](mailto:w Whipps@edrdpc.com) or (315) 471-0688 x682.

Thank you,

A handwritten signature in black ink, appearing to read 'Will Whipps', with a stylized flourish extending from the end.

William Whipps  
Project Manager

**Attachments:** Attachment 1: Facility Area Map





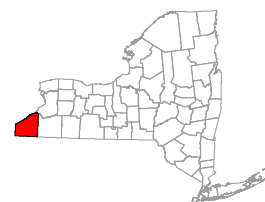
## South Ripley Solar Project

Town of Ripley, Chautauqua County, New York  
Preliminary Scoping Statement - Case No. 19-F-0560

**Figure 1: Regional Facility Location**

**Notes:** 1. Basemap: ESRI ArcGIS Online "World Topographic Map" map service.  
2. This map was generated in ArcMap on April 28, 2020. 3. This is a color graphic. Reproduction in grayscale may misrepresent the data.

- Facility Area
- State Boundary
- Town Boundary
- City Boundary



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Fish and Wildlife, New York Natural Heritage Program  
625 Broadway, Fifth Floor, Albany, NY 12233-4757  
P: (518) 402-8935 | F: (518) 402-8925  
[www.dec.ny.gov](http://www.dec.ny.gov)

May 21, 2020

William Whipps  
EDR  
217 Montgomery Street, Suite 1000  
Syracuse, NY 13202

Re: South Ripley Solar Project (EDR Project No. 19020)  
County: Chautauqua    Town/City: Ripley

Dear Mr. Whipps:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our database. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 9 Office, Division of Environmental Permits, at [dep.r9@dec.ny.gov](mailto:dep.r9@dec.ny.gov).

Sincerely,



Heidi Krahling  
Environmental Review Specialist  
New York Natural Heritage Program





**The following state-listed animal has been documented in  
the vicinity of the project site.**

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed or are candidates for federal listing.

**For information about any permit considerations for your project, please contact the Permits staff at the NYSDEC Region 9 Office at [dep.r9@dec.ny.gov](mailto:dep.r9@dec.ny.gov), (716) 851-7165.**

**The following species has been documented within 0.75 mile of the project site.**

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>NY STATE LISTING</i>	<i>FEDERAL LISTING</i>
<b>Birds</b>			
<b>Bald Eagle</b> <i>Breeding</i>	<i>Haliaeetus leucocephalus</i>	Threatened	12663

This report only includes records from the NY Natural Heritage database.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at [www.guides.nynhp.org](http://www.guides.nynhp.org), and from NYSDEC at [www.dec.ny.gov/animals/7494.html](http://www.dec.ny.gov/animals/7494.html).



**The following rare plants and significant natural communities have been documented at or in the vicinity of the project site.**

We recommend that potential impacts of the proposed project on these species or communities be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Field surveys of the project site may be necessary to determine the status of a species at the site, particularly for sites that are currently undeveloped and may still contain suitable habitat. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

**The following natural communities are considered significant from a statewide perspective by the NY Natural Heritage Program. Each community is either an example of a community type that is rare in the state, or a high-quality example of a more common community type. By meeting specific, documented criteria, the NY Natural Heritage Program considers these community occurrences to have high ecological and conservation value.**

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	HERITAGE CONSERVATION STATUS	
<b>Wetland/Aquatic Communities</b>				
<b>Confined River</b>			High Quality Occurrence of Uncommon Community Type	
<b>Documented within the project boundary.</b> Twentymile Creek. This is a moderately large occurrence in very good condition and with very good species diversity. The stream is in a moderate-sized landscape of working forests.				
				10196
<b>Upland/Terrestrial Communities</b>				
<b>Hemlock-Northern Hardwood Forest</b>			High Quality Occurrence	
<b>Documented within the project boundary.</b> This is a moderate-sized occurrence in a mature state with small patches of putative old growth and excellent plant species diversity. The community is in an excellent moderate-sized and intact forested landscape.				
				6512

**The following plant is listed as Endangered and so is a vulnerable natural resource of conservation concern.**

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	HERITAGE CONSERVATION STATUS	
<b>Tall Ironweed</b>	<i>Vernonia gigantea</i>	Endangered	Critically Imperiled in NYS	
<b>Documented within</b> [REDACTED]				
				1882

This report only includes records from the NY Natural Heritage database. For most sites, comprehensive field surveys have not been conducted, and we cannot provide a definitive statement as to the presence or absence of all rare or state-listed species. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the rare animals and plants in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at [www.guides.nynhp.org](http://www.guides.nynhp.org), from NatureServe Explorer at [www.natureserve.org/explorer](http://www.natureserve.org/explorer), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

Information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at [www.guides.nynhp.org](http://www.guides.nynhp.org). For descriptions of all community types, go to [www.dec.ny.gov/animals/97703.html](http://www.dec.ny.gov/animals/97703.html) for Ecological Communities of New York State.

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel

625 Broadway, 14th Floor, Albany, New York 12233-1500

P: (518) 402-9185 | F: (518) 402-9018

[www.dec.ny.gov](http://www.dec.ny.gov)

### **Non-Disclosure and Confidentiality Agreement for the Release of Threatened and Endangered Species Information**

In consideration and as a condition of receiving threatened and endangered species information ("Information") from the New York State Department of Environmental Conservation ("NYSDEC"), ConnectGen Chautauqua County, LLC ("Recipient") agrees as follows:

#### **I. Recipient Obligations to Safeguard Information**

- i. Recipient acknowledges that the Information is protected and confidential, and its improper release could impair the threatened and endangered species ability to survive.
- ii. The Information, including the precise location or identity of any threatened or endangered species, shall not be released or made available by Recipient to the public or other entities unless the release is performed pursuant to Section (I)(iv) of this Agreement.
- iii. Documents, maps or narrative text, in any format, which identifies or displays the Information, including the precise location or identity of any threatened or endangered species, shall not be released or made available by Recipient to the public or to other entities unless the release is performed pursuant to Section (I)(iv) of this Agreement.
- iv. Information may be disclosed to the Board on Electric Generation Siting and the Environment when filing documents, including applications, pursuant to Article 10 of the Public Service Law ("Article 10"). Recipient shall request that the Information be protected from public disclosure and redact Information from documents publicly filed with the Board on Electric Generation Siting and the Environment. Parties to the Article 10 proceeding may gain access to the Information only if that party has been granted party status by an Administrative Law Judge Ruling and the release is performed pursuant to a Protective Order.
- v. The Information shall be maintained by Recipient in a secure place in a manner that would prevent unauthorized access. Recipients may make copies or notes of Information, but such copies and notes shall be treated in accordance with the terms and conditions of this Agreement.
- vi. The Information is not subject to release under the Freedom of Information Law, Public Officers Law §§ 84-90.



Department of  
Environmental  
Conservation

- vii. The Information shall only be accessed by staff of Recipient and the Information shall only be used for the specific purpose of the development and participation in the matter of Application of ConnectGen Chautauqua County, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for the Proposed South Ripley Solar Energy Project; Case Number 19-F-0560 ("Project"). Use of the Information for any other purpose is prohibited.
- viii. If Recipient believes it may have improperly disclosed the Information, it shall notify the NYSDEC Regional Natural Resources Supervisor immediately.
- ix. Upon completion of Project certification requirements or one year from the date of this Agreement, whichever comes later, all Information shall be destroyed.

## **II. Effective and Termination Dates**

- i. The terms and conditions of this Agreement shall apply to all Information disclosed by NYSDEC and New York Natural Heritage Program (NYNHP) to Recipient beginning on the date of this Agreement.
- ii. The obligation to safeguard the Information and the terms and conditions of this Agreement only terminate if NYSDEC determines the species at issue is no longer threatened or endangered pursuant to Article 11 of the Environmental Conservation Law and 6 NYCRR Part 182.

## **III. Formal Terms**

- i. No terms, conditions, understanding or agreements purporting to modify or vary the terms of this Agreement shall be binding unless made in writing and signed by Recipient and NYSDEC.
- ii. No informal oral or written advice, guidance, suggestions or comments by NYSDEC regarding this agreement shall be construed as relieving Recipient's obligations of this Agreement.
- iii. The titles and headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

## **IV. Binding Effect**

- i. Recipient and the Recipient's officers, principals, employees, and agents, successors, and assigns shall be bound by this Agreement.
- ii. Any change in ownership or corporate status of Recipient including, but not limited to, any transfer of assets or real or personal property shall not alter Recipient's obligations under this Agreement.

## **V. Severability**

- i. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be unenforceable, in whole or in part, the remaining provisions shall be binding and enforceable.

## **VI. Governing Law**

- i. This Agreement shall be construed under and according to the laws of the State of New York.

**VII. Relief**

- i. Recipient agrees that NYSDEC has the right to obtain an immediate injunction against any breach or threatened breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

**VIII. Disclaimers**

- i. The Information provided pursuant to this Agreement is not a substitute for the data maintained by NYSDEC and NYNHP. The NYSDEC and NYNHP databases are continually growing as new habitats and occurrences of threatened and endangered species and communities are discovered or existing data are updated. The Information provided in this release may, therefore, become outdated as new data are added to the databases. Should a discrepancy develop between the Information provided to Recipient and the data in the NYSDEC and NYNHP databases, the data in the NYSDEC and NYNHP databases prevail.
- ii. Site-specific or comprehensive surveys for rare species and significant natural communities have not been conducted for the entire state. The data provided in this release cannot be relied on as a definitive statement of the presence or absence of rare species or significant ecological communities at given locations and cannot be substituted for on-site surveys that may be required for an environmental assessment.

**I hereby certify my understanding that access to Information is provided pursuant to the terms and conditions of the above provisions and that I agree to be bound by them.**

By:



Name:

John Kuba

Title:

Director, Environmental Affairs

Representing:

Connect Gen Chautauqua County LLC

Date:

10/1/2019

By:



Name:

Brianna Denoncourt

Title:

Wildlife Biologist I

New York State Department of Environmental Conservation

Date:

10/7/19



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