

NextEra Energy Transmission New York, Inc.

(NEETNY)

Empire State Line

Case 18-T-0499

Appendix H

**Permits and Approvals, Agency Correspondence,
and Notifications**

September 2020



EMPIRE STATE LINE PROJECT
PERMITS AND APPROVALS, AGENCY CORRESPONDENCE, AND NOTIFICATIONS

On behalf of NextEra Energy Transmission New York, Inc. (NEETNY), agency correspondence was conducted for the Empire State Line Project (Project). Copies of correspondence referenced elsewhere in this Environmental Management and Construction Plan (EM&CP) are provided in this appendix:

Federal Aviation Administration (FAA) Correspondence:

- On December 4 and 5, 2019, NEETNY received 182 letters from the FAA entitled “Determination of No Hazard to Air Navigation” (Determination), in which the FAA determined that the 182 structures of this Project that required evaluation by the FAA will not be a hazard to air navigation. A representative Determination is attached.

U.S. Army Corps of Engineers (USACE) Correspondence:

- March 20, 2020, Nationwide Permit Application Submittal

New York State Department of Environmental Conservation (NYSDEC) Correspondence:

- September 4, 2019, response letter from NYSDEC
- July 24, 2019, email from NYSDEC
- December 18, 2019, letter to Chris Hogan (NYSDEC)
- April 30, 2020, response email from Michael Todd (NYSDEC)
- June 1, 2020, email from NYSDEC confirming giant hogweed identification
- June 4, 2020, invasive species survey data emailed to NYSDEC
- June 26, 2020, response email regarding invasive species data from Josh Thiel (NYSDEC)
- September 8, 2020, email from NYSDEC confirming giant hogweed identification
- September 10, 2020, confirmation email regrading additional invasive species data from Josh Thiel (NYSDEC)

U.S. Fish and Wildlife Service (USFWS) Correspondence:

- March 16, 2020, letter from the USFWS
- March 16, 2020, call record of communication with the USFWS regarding Threatened and Endangered Species Permitting

New York State Historic Preservation Office (SHPO) Correspondence:

- January 16, 2019, letter to Josalyn Ferguson (SHPO)
- February 4, 2019, letter from SHPO

- August 23, 2019, letter to Josalyn Ferguson (SHPO)
- September 19, 2019, letter from SHPO
- October 9, 2019, submittal letter to Josalyn Ferguson (SHPO)
- November 5, 2019, response from SHPO
- November 7, 2019, submittal letter to SHPO
- November 8, 2019, response letter from SHPO
- February 21, 2020, preliminary results email to SHPO
- February 24, 2020, response from SHPO
- April 13, 2020, email to Josalyn Ferguson (SHPO)
- July 29, 2020, submittal letter to Josalyn Ferguson (SHPO)
- October 3, 2019, submittal letter to SHPO
- July 15, 2020, submittal letter to Josalyn Ferguson (SHPO)
- July 23, 2020, letter from Josalyn Ferguson (SHPO)
- May 18, 2020, letter from Josalyn Ferguson (SHPO)
- February 11, 2019, letter to James Finelli (SHPO)
- March 25, 2019, email response from SHPO

Erie County Soil and Water Conservation District (SWCD) Correspondence:

- April 10, 2020, email to the SWCD of Draft Drainage Repair Plan
- August 10, 2020, email from the SWCD with comments on Appendix K
- August 24, 2020, email to the SWCD of revised Appendix K
- September 1, 2020, email confirming acceptance of revised Appendix K as final

FAA CORRESPONDENCE



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2019-AEA-13147-OE

Issued Date: 12/04/2019

Jason Hoffman
NextEra Transmission
700 Universe Blvd
Juno Beach, FL 33408

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Transmission Line DYSINGER TAKE-OFF
Location:	Buffalo, NY
Latitude:	43-06-35.13N NAD 83
Longitude:	78-33-44.90W
Heights:	598 feet site elevation (SE) 85 feet above ground level (AGL) 683 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 2.

This determination expires on 06/04/2021 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (404) 305-6531, or darin.clipper@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2019-AEA-13147-OE.

Signature Control No: 422870708-424371310

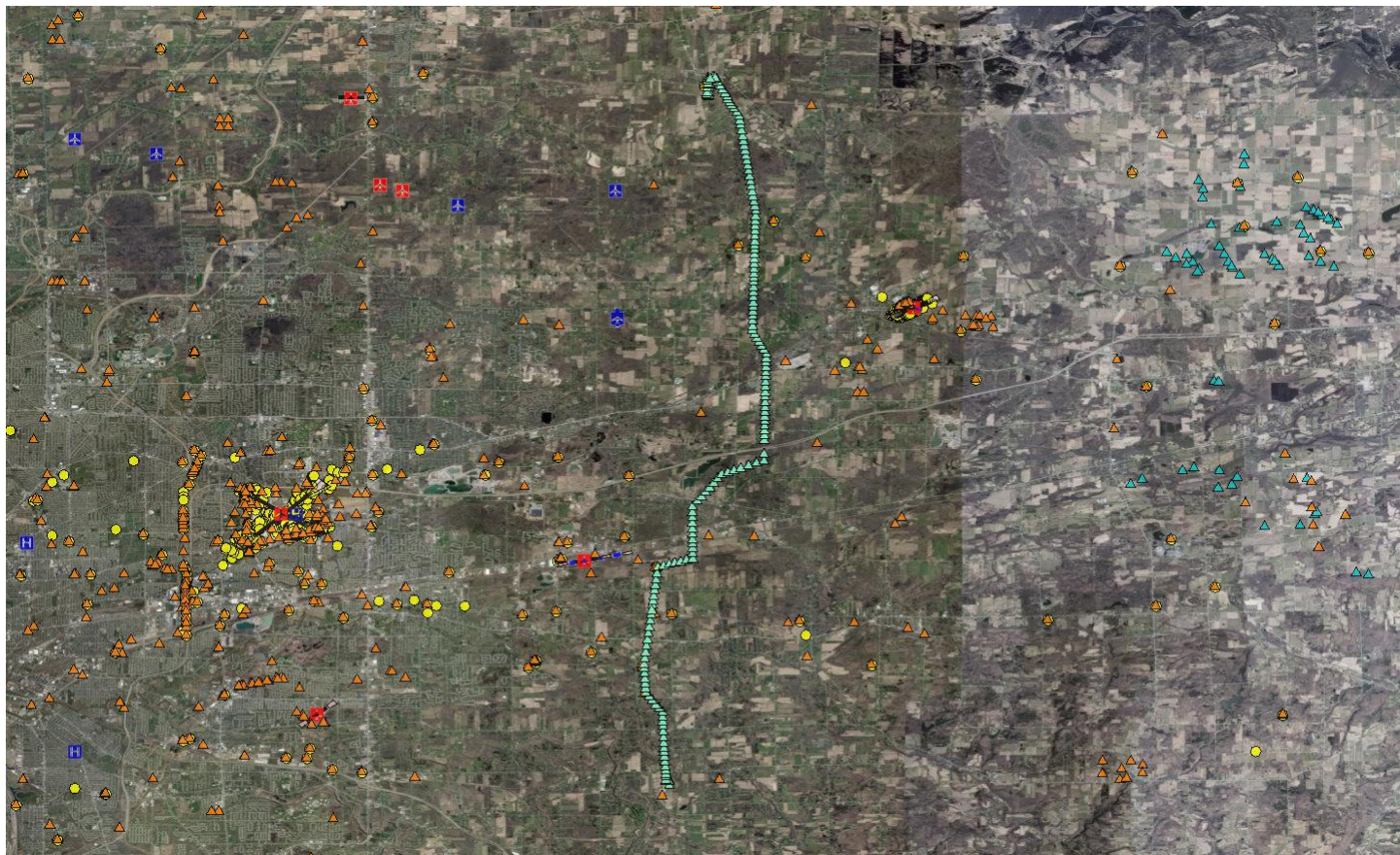
(DNE)

Darin Clipper
Specialist

Attachment(s)
Case Description
Map(s)

Case Description for ASN 2019-AEA-13147-OE

Single Circuit of 2-bundle conductor, 3 phase, 345kV transmission lines with 1 overhead ground wire and 1 overhead optical ground wire.



USACE Correspondence

March 20, 2020

Heather Adams
U.S. Army Corps of Engineers, Buffalo District
1776 Niagara Street
Buffalo, NY 14207

Re: Application for Nationwide Permit 12
NextEra Energy Transmission New York, LLC
Empire State Line
Elma in Erie County, New York

Dear Ms. Adams:

Ecology and Environment, Inc., member of WSP (hereafter referred to as E & E), on behalf of NextEra Energy Transmission New York, LLC (NEETNY), is submitting the enclosed application for a Nationwide Permit 12 under the jurisdiction of Section 404 of the Clean Water Act for the Empire State Line Project (Project), located in Royalton in Niagara County, New York and the towns of Alden, Newstead, Lancaster, and Elma in Erie County, New York.

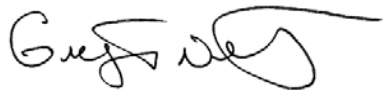
The enclosed application was developed in accordance with our discussions during a pre-application meeting held on May 7, 2019.

Please note that a copy of the application is being submitted to the New York State Department of Environmental Conservation (NYSDEC) for their information. However, all state permitting relevant to the Project (e.g. Freshwater Wetlands and 401 Water Quality Certification) is being addressed under the Article VII, "Siting of Major Utility Transmission Facilities," review process.

Thank you in advance for your attention to this submittal. Please feel free to contact me at 716-684-8060 or via email at gnetti@ene.com with questions regarding this application.

Sincerely,

ECOLOGY AND ENVIRONMENT, INC., MEMBER OF WSP



Greg Netti
E & E Project Manager

Enclosure – Nationwide Permit Application (2)

cc: John Vue, NEETNY
Coke Coakley, NEETNY
Mike Higgins, NYSDEC
Chuck Rosenburg, NYSDEC

NYSDEC CORRESPONDENCE

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7010 | F: (716) 851-7005
www.dec.ny.gov

September 4, 2019

Mr. Justin Zoladz
Ecology & Environment, Inc.
368 Pleasant View Drive
Lancaster, New York 14086

Re: Case 18-T-0499 – Application of NextEra Energy Transmission New York, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Empire State Line.

Dear Mr. Zoladz:

This letter serves as notification that the New York State Department of Environmental Conservation (NYSDEC) has verified the boundaries, delineated by Ecology & Environment, Inc (E&E), of sixteen (16) freshwater wetlands that are subject to regulation by NYSDEC under the Freshwater Wetlands Act, Article 24 of the Environmental Conservation Law. These wetland areas were initially delineated by E&E in its July 2018 Wetland Delineation Report (WDR), included as Attachment F to the Application submitted by NextEra Energy Transmission New York, Inc. (NextEra) in the above-referenced Article VII case. The verified wetlands boundaries are limited to those found within the “survey corridor” identified by E&E at page 1-13 of the WDR.

NYSDEC’s verification is based on my examination of the WDR, including the maps included in Appendix A to the WDR, my review of E&E’s wetland boundary shapefiles projected within NYSDEC’s ArcGIS software, and my field verifications undertaken in the survey corridor on September 11, 2018 and May 7, 2019. The NYSDEC-regulated wetlands identified by E&E are listed in Tables 5-1 & 5-2 of the WDR. Below is a list of the 16 NYSDEC-regulated wetlands and the corresponding E&E delineated wetlands, including five “unmapped” wetlands that are not yet formally mapped but meet NYSDEC freshwater wetlands criteria (i.e., 12.4-acre threshold).

- **Wetland WO-17:** W-T03-007B, W-T03-007C, W-T04-002A, W-T04-002B, W-T04-002C
- **Unmapped Wetland 1:** W-T04-003A, W-T04-003B, W-T04-003C
- **Wetland WO-25:** W-T04-010B, W-T04-010C
- **Wetland WO-21:** W-T04-12A, W-T04-12B, W-T04-12C



Department of
Environmental
Conservation

- **Wetland WO-37:** W-T04-013A, W-T04-013B, W-T04-013C
- **Wetland WO-13:** W-T04-019B, W-T04-019C
- **Wetland WO-15:** W-T04-020A, W-T04-020B, W-T04-020C
- **Wetland CL-8:** W-T01-023C
- **Wetland CL-23:** W-T01-021A, W-T01-021C
- **Wetland CL-10:** W-T02-002B, W-T02-002C
- **Wetland CL-6:** W-T02-004B-1, W-T02-005A, W-T02-005C, W-T02-007A, W-T02-007B, W-T02-007C
- **Unmapped Wetland 2:** W-T02-011A, W-T02-011B
- **Unmapped Wetland 3:** W-T02-012B, W-T02-015A, W-T02-015B, W-T02-015C
- **Unmapped Wetland 4:** W-T01-016A, W-T01-016B, W-T01-016C
- **Unmapped Wetland 5:** W-T01-004A, W-T01-004C
- **Wetland EA-17:** W-T01-001B, W-T01-002A, W-T01-002B

In 1975, the Freshwater Wetlands Act was enacted in order to preserve and protect wetlands and their functions, such as flood protection and fish and wildlife habitat. Under this law, NYSDEC is required to map all subject wetlands and, upon completion of any tentative wetlands map, provide an opportunity for any person to propose revisions to such map.

Please note that NYSDEC plans to amend the Freshwater Wetlands Maps for Niagara and Erie Counties to add the unmapped wetlands listed above and to better illustrate wetland boundaries based on E&E's wetland delineation and NYSDEC's verification. NYSDEC will publish notice of the proposed amendments in the Environmental Notice Bulletin and in two local newspapers on a later date. In addition, all affected landowners will be notified by certified mail. Affected landowners, local government officials, and other interested parties will be afforded the opportunity to propose revisions to the amended maps.

Please be aware that wetland boundaries may change over time and wetland maps do not fix wetland boundaries indefinitely. If you would like to document the precise boundary of any wetland relative to the survey corridor, it is your responsibility to have the wetland boundary surveyed. If you choose to complete a survey, the wetland boundary survey map should be submitted to me for verification. A copy of NYSDEC's Requirements for Wetland Survey and Mapping publication is enclosed. Please note that a surveyed wetland boundary that has been verified by NYSDEC will be considered valid for **five** years.

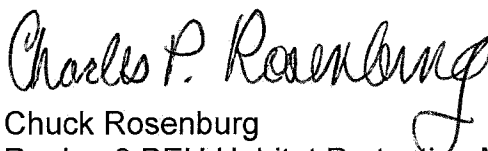
Please be advised that the U.S. Army Corps of Engineers may also have wetland jurisdiction independent of NYSDEC wetland jurisdiction. For more information, you may contact the Corps at:

Mr. Justin Zoladz
September 4, 2019
Page 3

United States Army Corps of Engineers Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
Telephone: (716) 879-4330

If you have any questions about this letter, please feel free to contact me at
(716) 851-7024 or by email at charles.rosenberg@dec.ny.gov.

Sincerely,

A handwritten signature in black ink that reads "Charles P. Rosenberg". The signature is written in a cursive style with a large, stylized "R" and "B".

Chuck Rosenberg
Region 9 BEH Habitat Protection Manager

CPR:ef

Encl: NYSDEC Region 9 *Requirements for Wetland Survey and Mapping*

cc: Mr. Mike Higgins, NYSDEC Division of Environmental Permits
Mr. Tom McGuire, NYSDEC Office of General Counsel
Ms. Jenny Murtaugh, NYSDEC Division of Fish & Wildlife
Mr. Coke Coakley, NextEra Energy Transmission New York, Inc.
Region 9 NextEra Empire State Line file

Subject:

FW: Case 18-T-0499-NextEra ESL NYSDC Edits to Proposed Certificate Conditions

From: Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>**Sent:** Wednesday, July 24, 2019 6:00 PM**To:** lsinger@couchwhite.com**Cc:** bart.franey@nationalgrid.com; cahowland@nyseg.com; debra_wegman@rge.com; dianekoz07@gmail.com; dkanyuck@nyenvlaw.com; barryandfran@rochester.rr.com; javier.bucobo@nypa.gov; Vu, Johnbinh <Johnbinh.Vu@nexteraenergy.com>; justin.atkins@avangrid.com; Tylutki, Kathleen (AGRICULTURE) <Kathleen.Tylutki@agriculture.ny.gov>; kbernstein@bsk.com; lmoessin@gmail.com; lisa.zafontemaffei@nationalgrid.com; martindd23@gmail.com; Saviola, Michael (AGRICULTURE) <Michael.Saviola@agriculture.ny.gov>; Desnoyers, Patricia (THRUWAY) <desnoyers@thruway.state.ny.us>; stephanie.arenecibia@nypa.gov; Wells, Tara (AGRICULTURE) <Tara.Wells@agriculture.ny.gov>; gallov@coned.com; b1993f@rochester.rr.com; King, James <James.King@nexteraenergy.com>; Vu, Johnbinh <Johnbinh.Vu@nexteraenergy.com>; dtedesco@couchwhite.com; Paulsen, Kara E (DEC) <Kara.Paulsen@dec.ny.gov>; Rosenbloom, Jeffrey <jeffrey.rosenbloom@avangrid.com>; McGuire, Thomas (DEC) <thomas.mcguire@dec.ny.gov>; Behnke, Heather (DPS) <Heather.Behnke@dps.ny.gov>**Subject:** Case 18-T-0499-NextEra ESL NYSDC Edits to Proposed Certificate Conditions

CAUTION - EXTERNAL EMAIL

Len,

Attached please find:

1. The Department's edits and comments to the NextEra/NEETNY Article VII proposed certificate conditions,
2. The Department's comments on Ecology and Environment's (E&E) June 18, 2019 email pertaining to wetland mitigation, and
3. a copy of E&E's June 18, 2019 email and attachments.

DEC staff appreciate the opportunity to comment and we look forward to continued discussions on this project.

Sincerely,

Mike Higgins

Michael Higgins

Major Projects Management, Division of Environmental Permits

New York State Department of Environmental Conservation

625 Broadway, Albany, NY 12233

P: (518) 402-9179 | F: (518) 402-9168 | michael.higgins@dec.ny.govwww.dec.ny.gov |  | 

NYSDEC Comments on the June 18, 2019 Wetland Mitigation Site Review Email:

The Department believes the material provided in your June 18, 2019 email provides a good first step in developing a process for developing a Wetland Mitigation Plan to mitigate impacts associated with converting forested wetland to non-forested wetland within the Empire State Line ROW. Specific comments are provided below:

- Staff are generally comfortable with E&E's mitigation site selection process and note that the examples offered may be of the type suitable for mitigating forested wetland conversion associated with the project (based on the information provided to date). Staff notes that the sites are either contiguous with or sufficiently connected to mapped State wetlands which would be required by the department in any wetland mitigation plan.
- Staff suggest that any efforts to prioritize site selection be based on distance from the ROW as well as acreage of mitigation available within any given Option Area.
- Staff concur with the general design approach described in your email – delineate wetland boundaries within each Option Area (for DEC verification), identify existing cover-types, and then prepare the formal mitigation plan.
- With that said, staff believe it would be useful to have a conceptual description of the planned mitigation approach to the development of the EM&CP and the Wetland Mitigation Plan. This approach is described in more detail below.
- Regarding your request for an example of conservation easement language for wetland mitigation areas, staff anticipate being able to provide such draft language at a later date during the settlement negotiations.
- The mitigation ratio for the loss of forested wetlands shall be 2 to 1 (the creation of 2 acres of new forested wetland for every one acre of loss).

The Department believes it would be useful to have the following additional details regarding forested wetland conversion which is anticipated within the project area and the mitigation designed to compensate for those impacts:

- NextEra should identify the extent of forested State wetland conversion (in acres) within the project area and explain how that acreage was determined.
- NextEra should provide a table that itemizes the acreage of forested wetland conversion by wetland (including both the delineated wetland code and the DEC's alpha-numeric wetland code). In addition, it would be useful to have maps and/or shapefiles of the forested wetland conversion areas.
- NextEra should describe the planned mitigation approach (e.g., anticipated schedule, proposed tree species to be planted, proposed tree planting density, proposed tree protection(s), monitoring plan, acceptable percent survival, replanting approach if necessary).
- NextEra should explain how it will assure that the mitigation areas are protected in perpetuity. In recognition of potential challenges associated with negotiating property protection mechanisms with multiple landowners, the Department understands that a mix of protection mechanisms (e.g., fee simple ownership by NextEra or a third party conservation organization, conservation easement, and/or deed restriction) may be necessary.



ecology and environment, inc.

Global Environmental Specialists

BUFFALO CORPORATE CENTER

368 Pleasant View Drive, Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

December 18, 2019

New York State Department of Environmental Conservation

Division of Environmental Permits

Attn: Chris Hogan

625 Broadway, 4th Floor

Albany, NY 12233-4757

**Re: Empire State Line Project
NextEra Energy Transmission New York
Follow-up Project Review Request**

Dear Mr. Hogan:

Ecology and Environment, Inc. (E & E) is supporting NextEra Energy Transmission New York (NEETNY) in its development of the proposed Empire State Line Project (Project). E & E submitted a previous request to the NHP November 8, 2017 and received a response on December 20, 2017 (attached). In accordance with the Article 7 certificate conditions, requires the project to contact the NYS Natural Heritage Program to check for any updates or changes of known threatened or endangered ("T&E") species or habitat, or Significant Natural Communities in the Project Area, we are requesting an updated response. Additionally, the extent of the Project area has been slightly modified since the first response, primarily with the additional of access roads, laydown areas, etc. The proposed right-of-way (ROW) alignment has not changed significantly. This letter is a follow-up request for the NYSDEC to complete an updated project review.

On October 17, 2017, the New York State Independent Service Operator selected NEETNY's Empire State Line Proposal to address the public policy need for new transmission in western New York. NEETNY's Project includes a new, 20.7-mile 345 kilovolt (kV) overhead electric transmission line in Niagara and Erie Counties. The transmission line will be located almost entirely within an existing overhead transmission line ROW owned by New York State Electric and Gas (NYSEG). The Project also includes two new switchyards to be constructed at the northern and southern ends of the new transmission line. The sites for the two switchyard sites are finalized, pending Department of Public Service (DPS) approval. A summary of the counties and municipalities crossed by Project is provided in Table 1.

Table 1
Counties and Municipalities Crossed by the Empire State Line Project

County	Municipality	Length (miles)
Niagara	Royalton	1.5
Niagara County Total		1.5
Erie	Newstead	10.2
	Lancaster	4.1
	Elma	2.0
	Alden	2.8
Erie County Total		19.1

Table 1
Counties and Municipalities Crossed by the Empire State Line Project

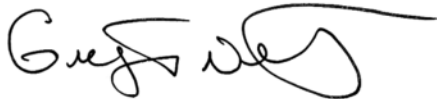
County	Municipality	Length (miles)
Project Total		20.7

With this letter, E & E is requesting NYSDEC to provide updated information regarding the presence of rare or state-listed threatened and endangered species and significant natural communities in the vicinity of the Project. E & E is also requesting guidance on any species-specific surveys and/or construction time of year restrictions that should be considered for the Project, such as those related to avian and bat populations. Any information provided related to locations of threatened and endangered species will be treated as confidential by NEETNY.

The location of the Project on U.S. Geological Survey (USGS) base maps is provided in Attachment 1. As requested with our 2017 submittal, a CD containing shapefiles of the proposed facilities is also enclosed to assist in your review. The shapefiles display the proposed centerline of the electric transmission line; the proposed transmission line ROW; proposed access roads; and area under consideration for the switchyards. Based on field surveys, negotiations with landowners, and consultation with the applicable regulatory agencies, NEETNY has selected the preferred transmission line centerline, locations for the transmission towers, and switchyards.

If you have any questions regarding this correspondence and information request, or require additional Project information, please do not hesitate to call me at (716) 684-8060, or contact me via email at gnetti@ene.com. We appreciate your assistance and thank you for your attention to this request.

Sincerely,
ECOLOGY AND ENVIRONMENT, INC.



Greg Netti
Project Manager

Attachment 1: USGS Maps of Project Facilities
Enclosures: CD Containing Project Shapefiles

Cc: Johnbinh Vu, NEETNY
Coke Coakley, NEETNY
Lindsay Wardwell, E & E
Justin Zoladz, E & E

From: "Todd, Michael T (DEC)" <michael.todd@dec.ny.gov>
Date: April 30, 2020 at 5:22:48 PM EDT
To: "Netti, Gregory" <GNetti@ene.com>
Cc: "Rosenburg, Charles P (DEC)" <charles.rosenburg@dec.ny.gov>, "Zoladz, Justin A." <JZoladz@ene.com>, "Coakley, Coke" <Coke.Coakley@nexteraenergy.com>, "Higgins, Michael T (DEC)" <michael.higgins@dec.ny.gov>
Subject: Re: Empire State Line Wetlands Update

Greg,

See answers to your questions below. Let me know if you need additional information.

1) Temporary air bridges will be installed for the crossings. In-water work will be limited to a single ford crossing as the bridge is laid from bank to bank. Can the bridge placements and single ford crossings be completed year-round, or is this restricted from 10/1 to 5/31?

The standard restrictive dates for in-water work on trout streams (including Little Buffalo Creek) is 10/1 and 5/31. So, the single ford being an in-water disturbance, would occur outside of the restrictive dates. If there is an unavoidable need for this in-water disturbance during the restrictive dates, a modification can be requested. I don't see an issue with a modification of restrictive dates to 3/15 to 5/31 to protect the State's trout stocking and trout fishing period on the creek. If the bridge placement does not result in in-water disturbance, it can occur yearround.

2) If the bridge placements must occur outside of the 10/1 to 5/31 restricted period, please confirm that the bridges can remain in place and be used throughout the restricted period (i.e., they do not need to be removed for the duration of the restricted period, then re-installed if construction is ongoing) . As you mentioned the trout fishery in the creek, we wanted to confirm that in your opinion the presence of the bridges will not impact the fishery.

The bridges may remain in place and be used throughout the restrictive period, as long as they do not result in ongoing in-water disturbance or allow soil and vegetative materials to enter the creek.

3) The proposed crossing location of Little Buffalo Creek has a gravel bottom. Speaking with our engineer, a rubber-tired vehicle may not be sufficient to handle

the size of the bridge. What additional considerations would be needed to utilize a tracked excavator for the crossing?

The use of rubber-tired vehicles is appropriate for fords in which there are frequent crossings, such as logging operations and farming practices. I would be ok with the use of a tracked vehicle for this single crossing. Tracked vehicles are apt to carry vegetative hitchhikers, which can include invasive species. Prior to a crossing with a tracked vehicle, every effort should be made to remove any vegetation (including seeds, roots, tubers, etc.) from tracks.

4) You mentioned that the banks should be “restored to previous condition.” There is an existing ATV ford at the proposed crossing location that has impacted the bank and is actually unstable and eroding. We may need to discuss expectations for bank restoration – specifically, if the ATV ford should be restored to current condition, not at all, or in an improved and engineered design.

Considering the crossing by ATVs will likely not stop following this project, perhaps an improved and engineered design is appropriate. Can you send a few photos of this ATV ford?

Thank you,

Mike

Michael T. Todd
Aquatic Biologist
NYSDEC Region 9
716-851-7010

From: Todd, Michael T (DEC) <michael.todd@dec.ny.gov>

Sent: Thursday, March 26, 2020 2:36 PM

To: Rosenberg, Charles P (DEC) <charles.rosenberg@dec.ny.gov>

Subject: Re: Empire State Line Wetlands Update

Chuck,

I will address Justin's questions about seasonal restrictions, ford of stream and permissible bank manipulations.

The coldwater restrictive dates of 10/1 to 5/31 are appropriate for Little Buffalo Creek and its tributaries, as the creek's trout fishery is supported by DEC trout stocking. Successful trout spawning is thought to be low, but this stream is capable of over-summer holdover. Modification of restrictive dates can be discussed, but any change during the spring trout stocking and fishing period (3/15 to 5/31) is unlikely to be granted.

A single ford to facilitate placement of temporary bridge is reasonable. However, the ford preferably would not occur in an area of soft bottom (such as clay, silt or muck). Also, it should not require deposition of stone and/or soil fill and should be done by a rubber-tired vehicle. More detail and discussion needed if this can not be achieved.

I don't have any issue if bank manipulations will be limited to top of bank, and road erosion controls/siltation prevention measures installed and maintained during duration of project, and bank including 50' adjacent area restored to previous condition and successfully vegetated with appropriate veg. If cuts are needed and/or manipulations occur below top of bank, more detail and discussion is needed.

Overall, I am encouraged by detail in sections 5.3.3 Other Avoidance and Minimization Measures and 5.3.4 Stream Bed and Bank Restoration.

Thanks, Mike

Michael T. Todd
Aquatic Biologist
NYSDEC Region 9
716-851-7010

Cervi, Lea

Subject: Giant Hogweed Population

From: dec.sm.ghogweed <ghogweed@dec.ny.gov>

Sent: Monday, June 1, 2020 1:25 PM

To: Zoladz, Justin A. <JZoladz@ene.com>

Subject: RE: Giant Hogweed Population

Thanks for contacting our program with photos, this is indeed giant hogweed and is actually a known site where we have controlled before. we currently have it listed as recently eradicated, so we either missed a patch or they came up from the seedbank. We are scaled back this year due to Covid so I am not sure that we will be able to visit and control plants this year, but I will forward this information to the closest crew.

Thanks,

Daniel H. Waldhorn

Giant Hogweed Information Line Coordinator
Division of Lands and Forests – Forest Health

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY, 12561

P: (845) 256-3111 | F: (845) 255-3414 | daniel.waldhorn@dec.ny.gov

Giant Hogweed Information Line: (845) 256-3111 | ghogweed@dec.ny.gov

Giant Hogweed Program Website: <http://www.dec.ny.gov/animals/39809.html>

From: Zoladz, Justin A. <JZoladz@ene.com>

Sent: Friday, May 29, 2020 11:50 AM

To: dec.sm.ghogweed <ghogweed@dec.ny.gov>

Subject: Giant Hogweed Population

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Yesterday while I was conducting the EMCP site visit with DPS and DAM staff (DEC regional staff and Albany staff were unable to attend) for the Article 7 transmission project, Empire State Line, I observed a population of giant hogweed along one of the proposed access roads. I have included a Google Earth KMZ file as well as some photos. The population is located on NYSEG's utility parcel, so there is no street address. The adjacent street address to the east is 11303 Genesee St, Alden, NY 14004.

There is an existing grass access path leading down to some hay fields. I first observed a single individual about 20 feet into the shrubland (mostly gray dogwood) on the east side of the path. About 50 feet further south, there was a small opening in the shrubs which had a much larger population with what appeared to be dozens of individuals. While I poked into the brush to get a few photos to confirm the identification, I did not make an exhaustive search of the area. We needed to stay on course for the site visit and we didn't observe any others in the area from the path.

As we are just wrapping up our invasive species control plan, we will include this population. Construction is not proposed to begin until this fall, but this population is within the proposed clearing limits. Please let me know if NYSDEC will come and treat this population this summer. If you need any additional information, please do not hesitate to ask.

JUSTIN ZOLADZ, PWS

Senior Biologist

t: 716-684-8060 m: 716-560-4585

Ecology and Environment, Inc.

Member of WSP

368 Pleasant View Drive, Lancaster, New York 14086

www.ene.com

Cervi, Lea

Subject: FW: NEETNY Empire State Line – IS Baseline Results
Attachments: NEET_ESL_InvasivesGDB20200603.zip

From: Czapka, Stephen J. <SCzapka@ene.com>

Sent: Thursday, June 4, 2020 10:55 AM

To: Rosenberg, Charles P (DEC) <charles.rosenberg@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>; Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>

Cc: johnbinh.vu@nexteraenergy.com; Coke.Coakley@nexteraenergy.com; Natasha.Snyder@nexteraenergy.com; Netti, Gregory <GNetti@ene.com>; Zoladz, Justin A. <JZoladz@ene.com>; Skrzynski, Jordan <JSkrzynski@ene.com>; Cervi, Lea <VCervi@ene.com>

Subject: NEETNY Empire State Line – IS Baseline Results

On behalf of NextEra Energy Transmission New York (NEETNY), per the Invasive Species Management Plan (ISMP) Specifications (specifications) for the Empire State Line Project (Case 18-T-0499), we are submitting the results of a pre-construction baseline survey for invasive plant species within the limits of disturbance (LOD) for the Project. Per item 1 under Adaptive Management Strategy Plan in the specifications, we are requesting a Project-specific list of Invasive Species of Special Concern (ISSC) and Invasive Species of High Concern (ISHC). It is our understanding that the Project-specific list provided by your office will serve as the baseline for the Project's draft ISMP. It is also our understanding that the species on the Project-specific list will be the ones that NEETNY will be required to manage and control.

Attached to this e-mail is a zipped Geodatabase containing the results of the baseline IS survey. All observed IS are presented as polygons showing the extent of coverage.

A few notes about the data:

- Projection is UTM 18N NAD83 meters.
- There is a polygon for each observed species at each location, therefore there are overlapping polygons.
- The field 'Noxious/IS Cover Class Range (Midpoint)' indicates the overall percent coverage of all invasive species in that polygon.
- The field 'PercentCoverClass' indicate the coverage of that specific species listed in the 'SpeciesName' field.

We look forward to receiving the Project-specific list of ISSC and ISHC so that we may continue preparation of the draft ISMP.

Thank you.

Steve Czapka

STEPHEN CZAPKA

Certified Wildlife Biologist

t: 757-456-5356 ext 5008 m: 757-945-9899

Ecology and Environment, Inc.

Member of WSP

200 Bendix Road, Suite 250

Virginia Beach, VA 23452

www.ene.com

Cervi, Lea

From: Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>
Sent: Friday, June 26, 2020 4:04 PM
To: Zoladz, Justin A.; Czapka, Stephen J.; Rosenberg, Charles P (DEC); Higgins, Michael T (DEC)
Cc: johnbinh.vu@nexteraenergy.com; Coke.Coakley@nexteraenergy.com; Natasha.Snyder@nexteraenergy.com; Netti, Gregory; Skrzynski, Jordan; Cervi, Lea
Subject: Re: NEETNY Empire State Line – IS Baseline Results
Attachments: NEETNY ISSC ISHC 6262020 .xlsx

Yes, sorry for the confusion. *Ficaria verna* fig buttercup or lesser celandine should be in the ISSC list. I've update the attached spreadsheet to reflect this.

Have a great weekend.
Josh

Joshua Thiel

Invasive Species Coordination Section Chief
Biologist 3 Ecology
Division of Lands & Forests

New York State Department of Environmental Conservation

625 Broadway, 5th Flr, Albany, NY 12233
P: (518) 402-8978 | josh.thiel@dec.ny.gov

www.dec.ny.gov |



From: Zoladz, Justin A. <JZoladz@ene.com>
Sent: Friday, June 26, 2020 3:30 PM
To: Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>; Czapka, Stephen J. <SCzapka@ene.com>; Rosenberg, Charles P (DEC) <charles.rosenberg@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>
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Subject: RE: NEETNY Empire State Line – IS Baseline Results

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Mr. Thiel,

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it is listed as "*Ranunculus ficaria* (Lesser Celandine)," which is the old scientific name. The use of the different scientific names may have caused an error.

Please let us know if lesser celandine (*Ficaria verna*) should appear on the ISSC list, and not the ISHC list for the project.

Thank you,

Justin A. Zoladz

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Subject: Re: NEETNY Empire State Line – IS Baseline Results

Hello Steve,

Thanks for catching the species I missed. 3 of 4 I have added to the ISSC list.

See the attached and updated species lists.

Regards,

Josh

Joshua Thiel

Invasive Species Coordination Section Chief

Biologist 3 Ecology

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Morrow's Honeysuckle (*Lonicera morrowii*)

Japanese Stilt Grass (*Microstegium vimineum*)

Additionally, one species was documented at the site, but was omitted from our initial submission:

Black Swallow-wort (*Cynanchum louiseae*)

Please let us know if any of these four species should be included on our project-specific ISSC or ISHC list.

Thank you,

Steve

STEPHEN CZAPKA

Certified Wildlife Biologist

t: 757-456-5356 ext 5008 m: 757-945-9899

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Best regards,

Josh

Joshua Thiel

Invasive Species Coordination Section Chief
Biologist 3 Ecology
Division of Lands & Forests

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P: (518) 402-8978 | josh.thiel@dec.ny.gov

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Sent: Thursday, June 4, 2020 10:55 AM

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Cc: Johnbinh.Vu@nexteraenergy.com <Johnbinh.Vu@nexteraenergy.com>; Coke.Coakley@nexteraenergy.com <Coke.Coakley@nexteraenergy.com>; Natasha.Snyder@nexteraenergy.com <Natasha.Snyder@nexteraenergy.com>;
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Cervi, Lea <VCervi@ene.com>

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Thank you.

Steve Czapka

STEPHEN CZAPKA

Certified Wildlife Biologist

t: 757-456-5356 ext 5008 m: 757-945-9899

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Member of WSP

200 Bendix Road, Suite 250

Virginia Beach, VA 23452

www.ene.com

Cervi, Lea

From: dec.sm.ghogweed <ghogweed@dec.ny.gov>
Sent: Tuesday, September 8, 2020 12:55 PM
To: Gelb, Matthew
Cc: Netti, Gregory; Cervi, Lea; Zoladz, Justin A.; Skrzynski, Jordan
Subject: RE: Giant Hogweed in Newstead/Akron NY
Attachments: Giant Hogweed Control Methods Guide_NYSDEC.pdf

Thank you for submitting photographs as requested. We have identified the plant shown as Giant Hogweed. As Giant Hogweed is capable of causing severe skin irritation including painful, burning blisters and persistent scarring, please avoid going near this plant.

This is on a known site, but looks like a new location previously unknown to us. New York State offers full control of Giant Hogweed free of charge for all landowners in the state. Although unfortunately due to COVID-19 we do not have enough staff to control newly reported locations in 2020, I will enter this second location into our database for once we resume normal operations. I have attached a control methods guide that goes over how to safely control hogweed yourself if you choose to do that this year.

Thanks,

Daniel H. Waldhorn

Giant Hogweed Information Line Coordinator
Division of Lands and Forests – Forest Health

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY, 12561

P: (845) 256-3111 | F: (845) 255-3414 | daniel.waldhorn@dec.ny.gov.com

Giant Hogweed Information Line: [\(845\) 256-3111](tel:8452563111) | ghogweed@dec.ny.gov

Giant Hogweed Program Website: <http://www.dec.ny.gov/animals/39809.html>

From: Gelb, Matthew <Matthew.Gelb@wsp.com>
Sent: Tuesday, September 8, 2020 10:50 AM
To: dec.sm.ghogweed <ghogweed@dec.ny.gov>
Cc: Netti, Gregory <Greg.Netti@wsp.com>; Cervi, Lea <Lea.Cervi@wsp.com>; Zoladz, Justin A. <Justin.Zoladz@wsp.com>; Skrzynski, Jordan <Jordan.Skrzynski@wsp.com>
Subject: Giant Hogweed in Newstead/Akron NY

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hello,

While conducting wetland delineations and invasive species surveys in August for the Empire State Line Transmission project, I observed a very small population of giant hogweed. It was very recently mowed but there were a few small individuals popping up. I have included a Google Earth KMZ file and a photo. The population is located on a National Fuel right-of-way so there is no street address. However, it is just southeast of the intersection of Main Street and Havens Road in the town of Newstead/Akron. An approximate address is 11979-12017 NY-5, Akron, NY 14001.

I observed the first individual within the mowed field then noticed a few other extremely small individuals closer to the wooded patch just west of the fuel corridor. We did not make an exhaustive search of the surrounding area, but no other individuals were observed along our survey corridor which, on this day, extended from Main Street south through the existing agricultural fields.

As we are just wrapping up our invasive species control plan, we will include this population. Please let us know if NYSDEC will come and treat this population. If you need any additional information, please do not hesitate to ask.

MATTHEW GELB

Environmental Specialist

t: 716-684-8060 m: 516-987-6759

Ecology and Environment, Inc.

Member of WSP

368 Pleasant View Dr, Lancaster, NY 14086

www.ene.com

Cervi, Lea

Subject: RE: NEETNY Empire State Line – IS Baseline Results

From: Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>

Sent: Thursday, September 10, 2020 3:23 PM

To: Czapka, Stephen J. <Stephen.Czapka@wsp.com>

Subject: Re: NEETNY Empire State Line – IS Baseline Results

Hi Steve,

Yes, curly leaf pondweed is a Prohibited species under Part 575. Though due to the nature of this aquatic plant, DEC will not consider it for inclusion in either the ISSC or ISHC lists. I don't know how much if any in-water work this project will entail, but as needed crews should follow general spread prevention guidelines and also 'clean.drain.dry' standards for equipment. This is typically for boats and the standards for cleaning may not match exactly with existing ISMP/EM&CP language. However I don't feel a need to revisit any of that wording.

Also, as confirmation wild parsnip (*Pastinaca sativa*) is not a regulated species under Part 575 and not subject to regulatory oversight. Practically speaking, it can still pose hazards and I recommend crews be careful in dealing with it.

Thanks

Josh

Joshua Thiel

Invasive Species Coordination Section Chief

Biologist 3 Ecology

Division of Lands & Forests

New York State Department of Environmental Conservation

625 Broadway, 5th Flr, Albany, NY 12233

P: (518) 402-8978 | josh.thiel@dec.ny.gov

www.dec.ny.gov |



From: Czapka, Stephen J. <Stephen.Czapka@wsp.com>
Sent: Thursday, September 10, 2020 9:16 AM
To: Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>
Subject: FW: NEETNY Empire State Line – IS Baseline Results

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Hi Josh,

I spoke to you briefly yesterday regarding invasive plants on the Empire State Line Project. After our call, I was told that they did find one additional species that is on the prohibited species list, *Potamogeton crispus* (Curly Pondweed). Could you please let me know if this should be considered an ISSC or ISHC for the project? I've attached our original list for reference.

Thanks,
Steve

Stephen J. Czapka, Certified Wildlife Biologist
Lead Consultant, Environmental Scientist

WSP USA (formerly Ecology and Environment, Inc.)
Please note the new email address.



Email: Stephen.Czapka@wsp.com
Phone: +1 757 456 5356

WSP USA
200 Bendix Road, Suite 250
Virginia Beach, VA 23452

wsp.com

From: Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>
Sent: Friday, June 26, 2020 4:04 PM
To: Zoladz, Justin A. <JZoladz@ene.com>; Czapka, Stephen J. <SCzapka@ene.com>; Rosenberg, Charles P (DEC) <charles.rosenberg@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>
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Subject: Re: NEETNY Empire State Line – IS Baseline Results

Yes, sorry for the confusion. *Ficaria verna* fig buttercup or lesser celandine should be in the ISSC list. I've update the attached spreadsheet to reflect this.

Have a great weekend.
Josh

Joshua Thiel

Invasive Species Coordination Section Chief

New York State Department of Environmental Conservation

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Joshua Thiel

Invasive Species Coordination Section Chief

Biologist 3 Ecology

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www.dec.ny.gov |  |  | 



From: Czapka, Stephen J. <SCzapka@ene.com>

Sent: Thursday, June 4, 2020 10:55 AM

To: Rosenberg, Charles P (DEC) <charles.rosenberg@dec.ny.gov>; Higgins, Michael T (DEC) <michael.higgins@dec.ny.gov>; Thiel, Josh O (DEC) <josh.thiel@dec.ny.gov>

Cc: Johnbinh.Vu@nexteraenergy.com <Johnbinh.Vu@nexteraenergy.com>; Coke.Coakley@nexteraenergy.com <Coke.Coakley@nexteraenergy.com>; Natasha.Snyder@nexteraenergy.com <Natasha.Snyder@nexteraenergy.com>; Netti, Gregory <GNetti@ene.com>; Zoladz, Justin A. <JZoladz@ene.com>; Skrzynski, Jordan <JSkrzynski@ene.com>; Cervi, Lea <VCervi@ene.com>

Subject: NEETNY Empire State Line – IS Baseline Results

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

On behalf of NextEra Energy Transmission New York (NEETNY), per the Invasive Species Management Plan (ISMP) Specifications (specifications) for the Empire State Line Project (Case 18-T-0499), we are submitting the results of a pre-construction baseline survey for invasive plant species within the limits of disturbance (LOD) for the Project. Per item 1 under Adaptive Management Strategy Plan in the specifications, we are requesting a Project-specific list of Invasive Species of Special Concern (ISSC) and Invasive Species of High Concern (ISHC). It is our understanding that the Project-specific list provided by your office will serve as the baseline for the Project's draft ISMP. It is also our understanding that the species on the Project-specific list will be the ones that NEETNY will be required to manage and control.

Attached to this e-mail is a zipped Geodatabase containing the results of the baseline IS survey. All observed IS are presented as polygons showing the extent of coverage.

A few notes about the data:

- Projection is UTM 18N NAD83 meters.
- There is a polygon for each observed species at each location, therefore there are overlapping polygons.
- The field 'Noxious/IS Cover Class Range (Midpoint)' indicates the overall percent coverage of all invasive species in that polygon.
- The field 'PercentCoverClass' indicate the coverage of that specific species listed in the 'SpeciesName' field.

We look forward to receiving the Project-specific list of ISSC and ISHC so that we may continue preparation of the draft ISMP.

Thank you.

Steve Czapka

STEPHEN CZAPKA

Certified Wildlife Biologist

t: 757-456-5356 ext 5008 m: 757-945-9899

Ecology and Environment, Inc.

Member of WSP

200 Bendix Road, Suite 250

Virginia Beach, VA 23452

www.ene.com

USFWS CORRESPONDENCE



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:

March 16, 2020

Consultation Code: 05E1NY00-2020-SLI-2065

Event Code: 05E1NY00-2020-E-06264

Project Name: Empire State Line Transmission

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: 05E1NY00-2020-SLI-2065

Event Code: 05E1NY00-2020-E-06264

Project Name: Empire State Line Transmission

Project Type: TRANSMISSION LINE

Project Description: NextEra Energy Transmission New York's (NEETNY) Project includes a new, 20.7-mile 345 kilovolt (kV) overhead electric transmission line in Niagara and Erie Counties. The transmission line will be located almost entirely within an existing overhead transmission line ROW owned by New York State Electric and Gas (NYSEG). The Project also includes two new switchyards to be constructed at the northern and southern ends of the new transmission line.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/42.97383158792197N78.5414259047371W>



Counties: Erie, NY | Niagara, 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 Fisheries¹, 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.

-
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: https://ecos.fws.gov/ecp/species/9045	Threatened

Critical habitats

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

Telephone Call Summary Log

By:	Matthew Gelb, Ecology and Environment, Inc.	Date:	3/16/2020
Talked With:	Tim Sullivan	Project Number:	1009616.0001
Of:	USFWS New York Field Office	Project Name:	Empire State Line
Telephone Number:	(607) 753-9334	Subject:	Threatened and Endangered Species Permitting

I contacted the USFWS New York Field Office to follow up on previous correspondence regarding the presence of federally listed threatened and endangered species. I was forwarded to Tim Sullivan, a FWS Biologist who had previously responded to our request for consultation in 2018. I asked if an updated ESA correspondence letter was necessary considering the T+E species potentially affected by the project had not changed (Northern long-eared bat, *myotis septentrionalis*) and that the project footprint had not changed considerably. Tim agreed that since the official species list has not changed, and since the project footprint and activities are essentially unchanged, our original correspondence with USFWS regarding ESA determination still holds up; an updated ESA correspondence document is not necessary.

SHPO CORRESPONDENCE



ecology and environment, inc.

Global Environmental Specialists

BUFFALO CORPORATE CENTER

368 Pleasant View Drive

Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

January 16, 2019

Josalyn Ferguson

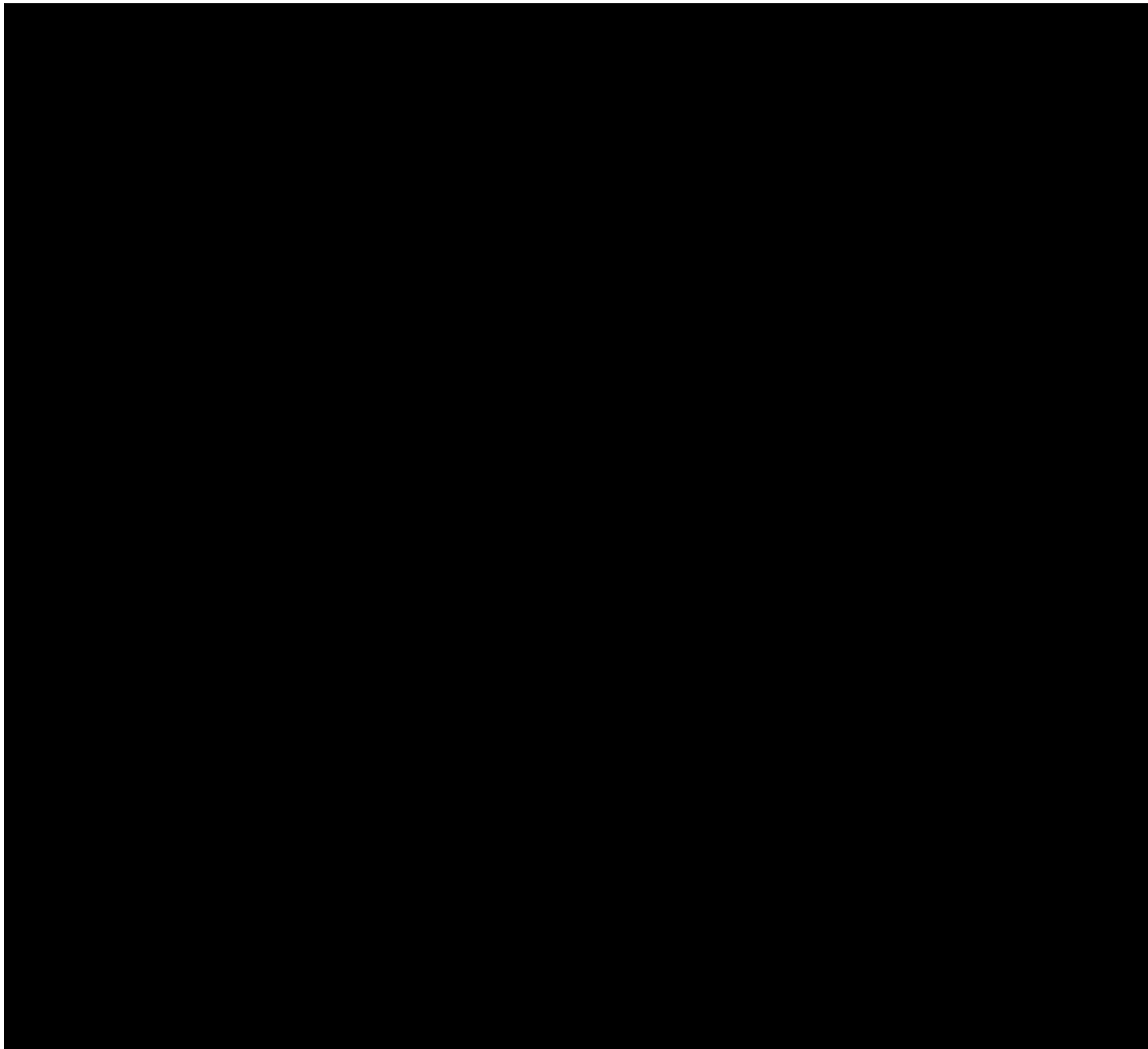
Historic Preservation Specialist/Archaeology

New York State Office of Parks, Recreation and Historic Preservation

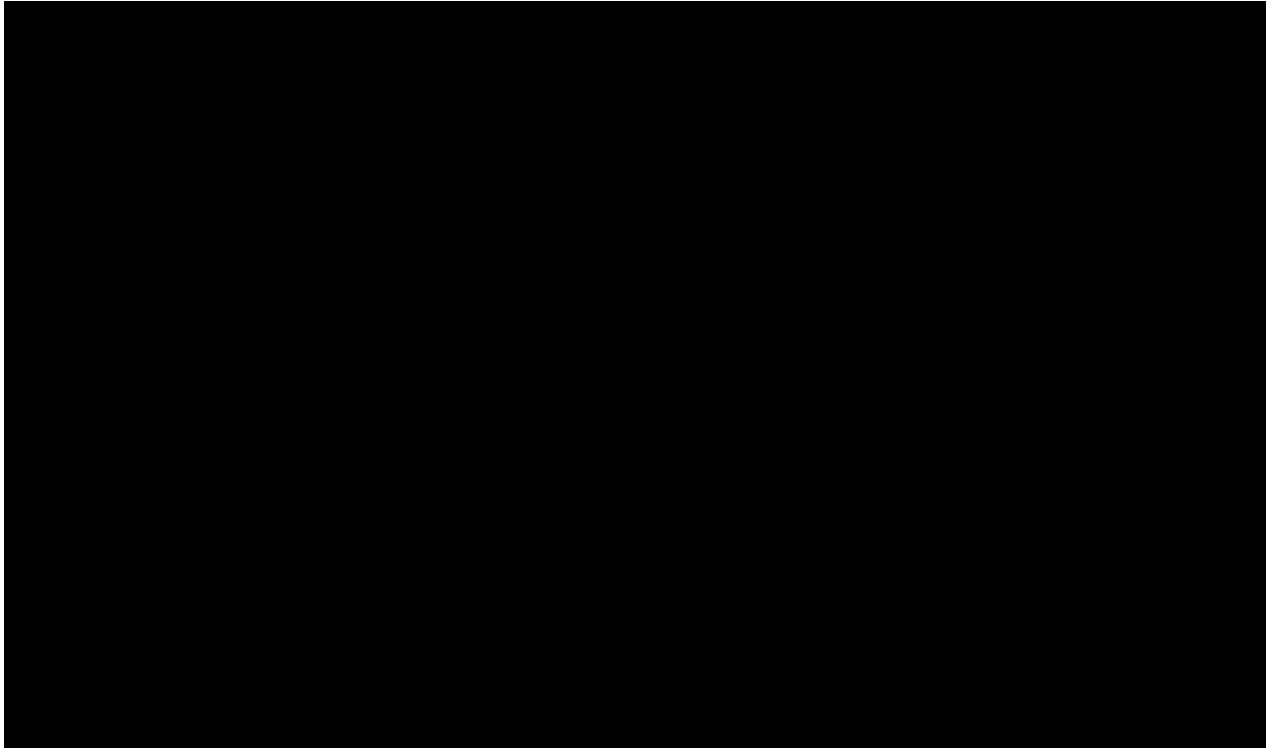
Division of Historic Preservation

P.O. Box 189

Waterford, New York 12188-0189



Josalyn Ferguson
January 16, 2019
Page 2





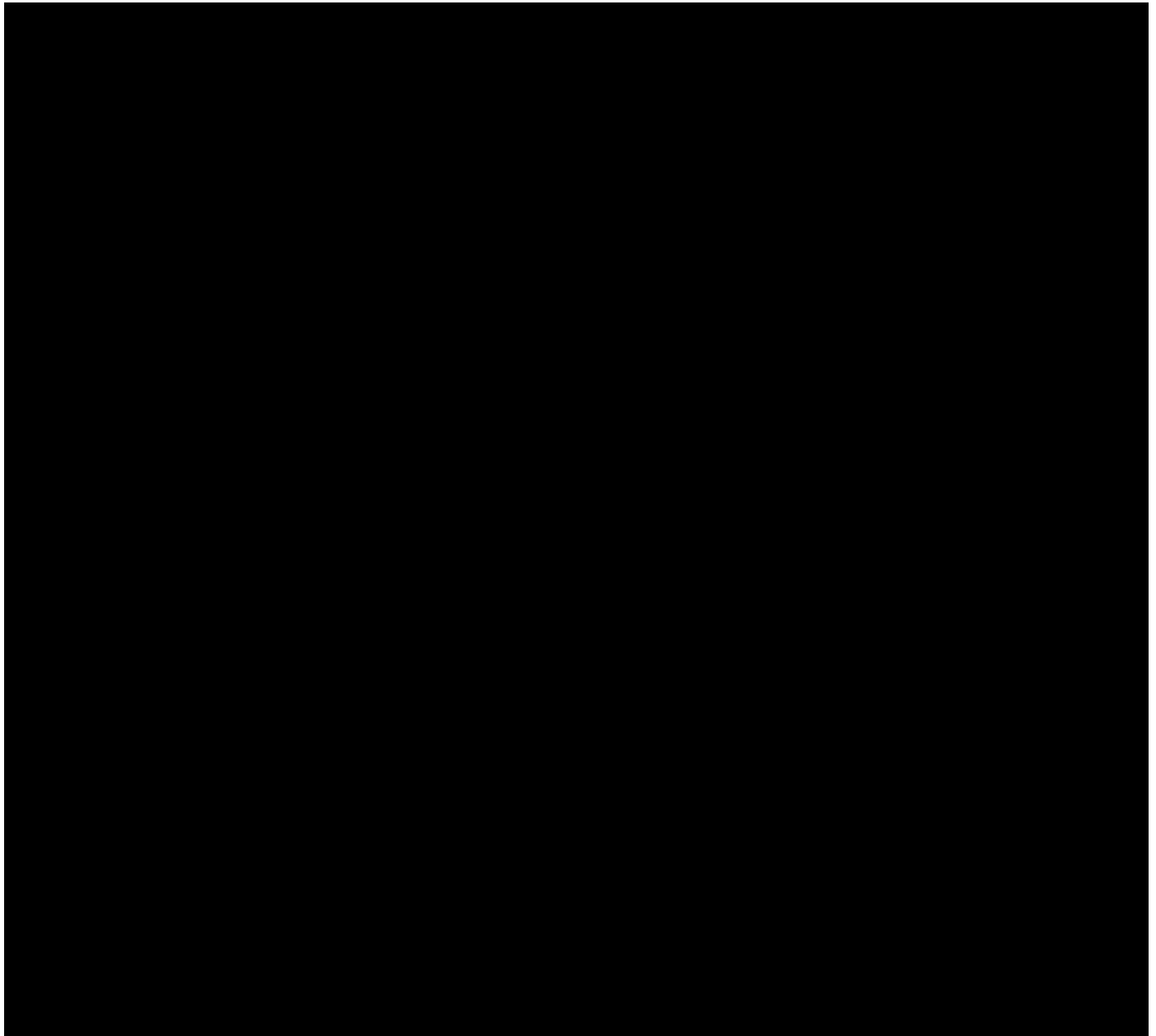
Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

February 4, 2019

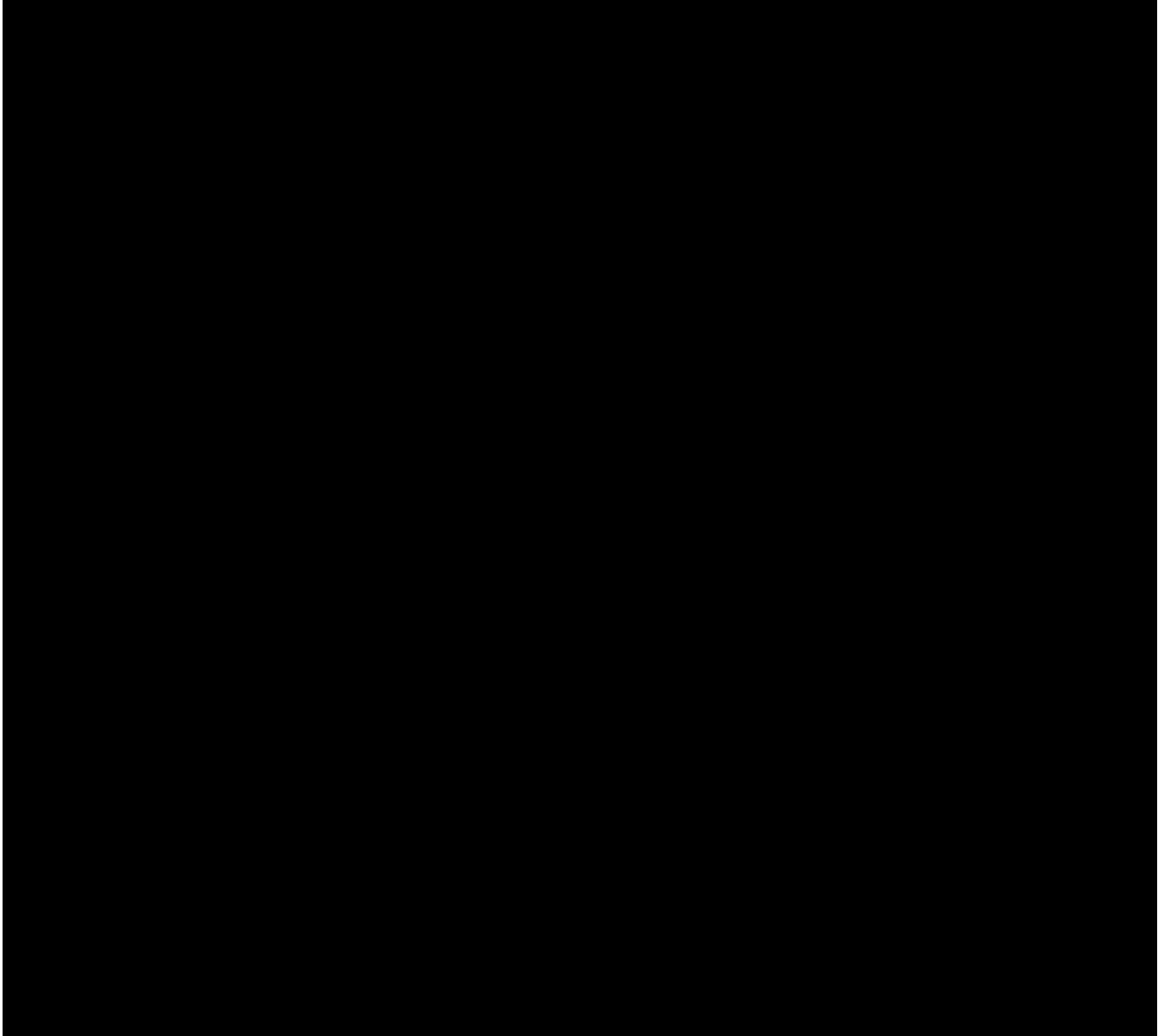
Ms. Natasha Snyder
Ecology & Environment, Inc.
368 Pleasantview Drive
Lancaster, NY 14225



Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • www.nysparks.com

Ms. Natasha Snyder
February 4, 2019
Page 2.





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368 Pleasant View Drive

Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

August 23, 2019

Josalyn Ferguson

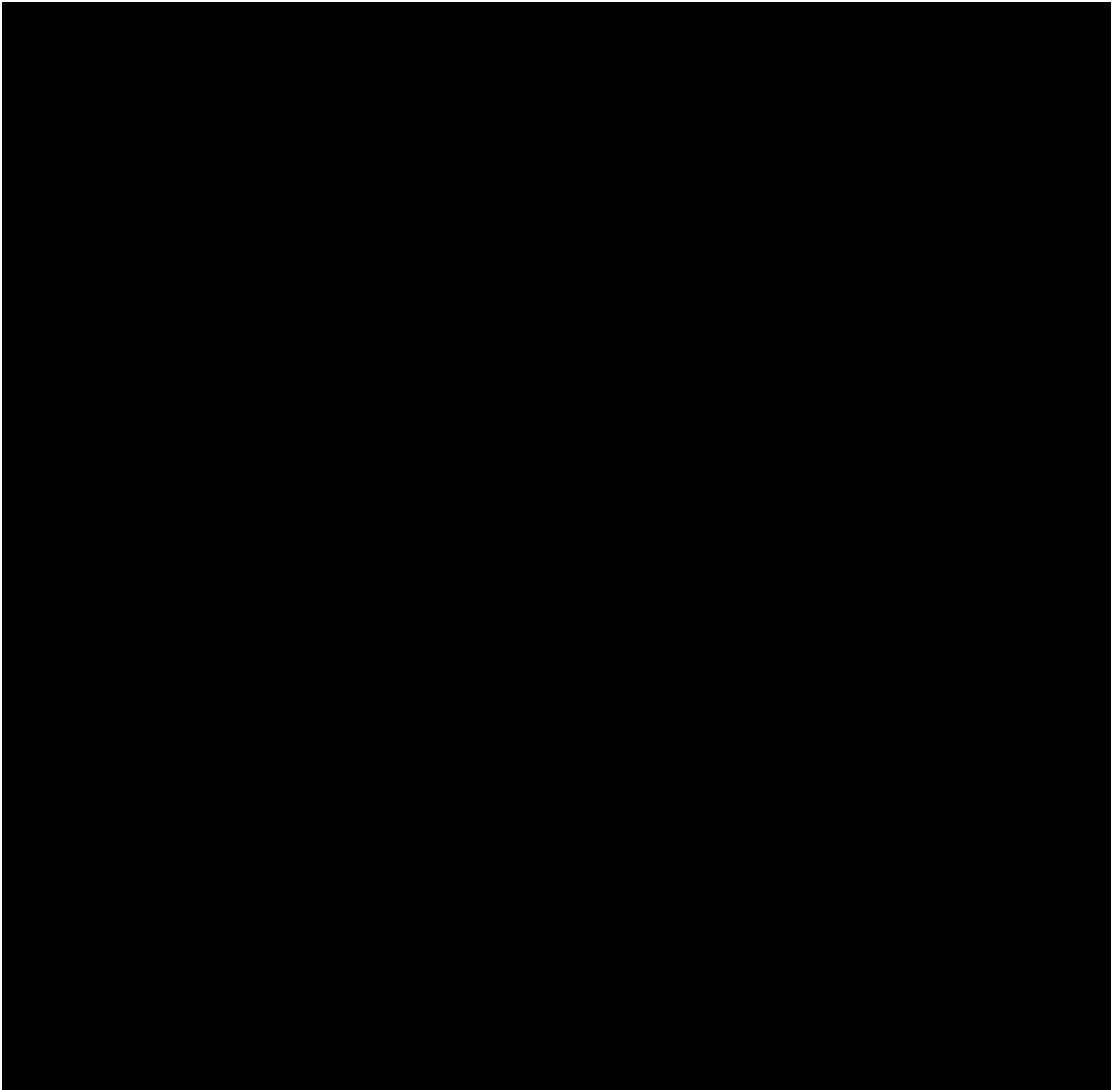
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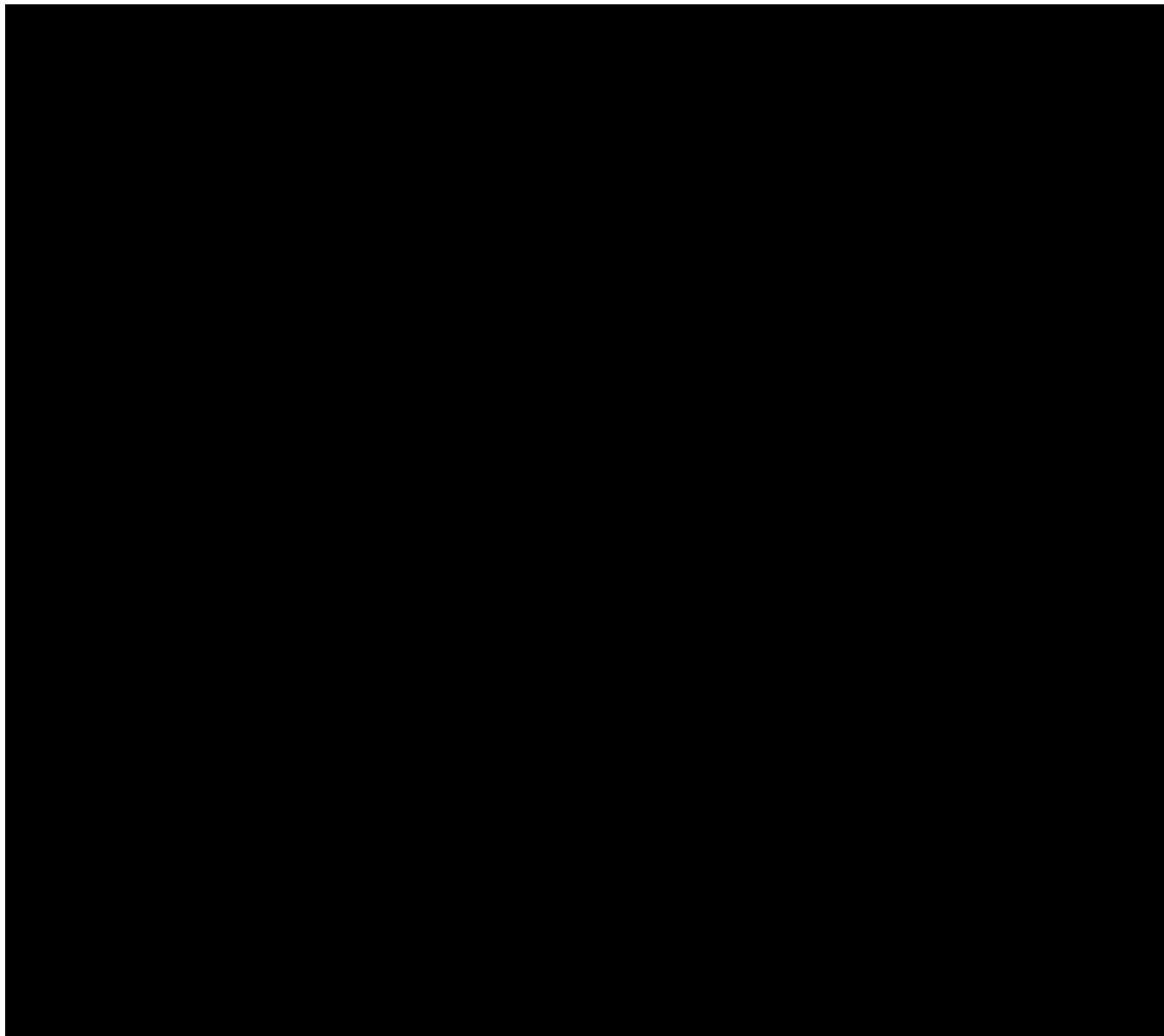
New York State Office of Parks, Recreation and Historic Preservation

Division of Historic Preservation

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Waterford, New York 12188-0189







Parks, Recreation, and Historic Preservation

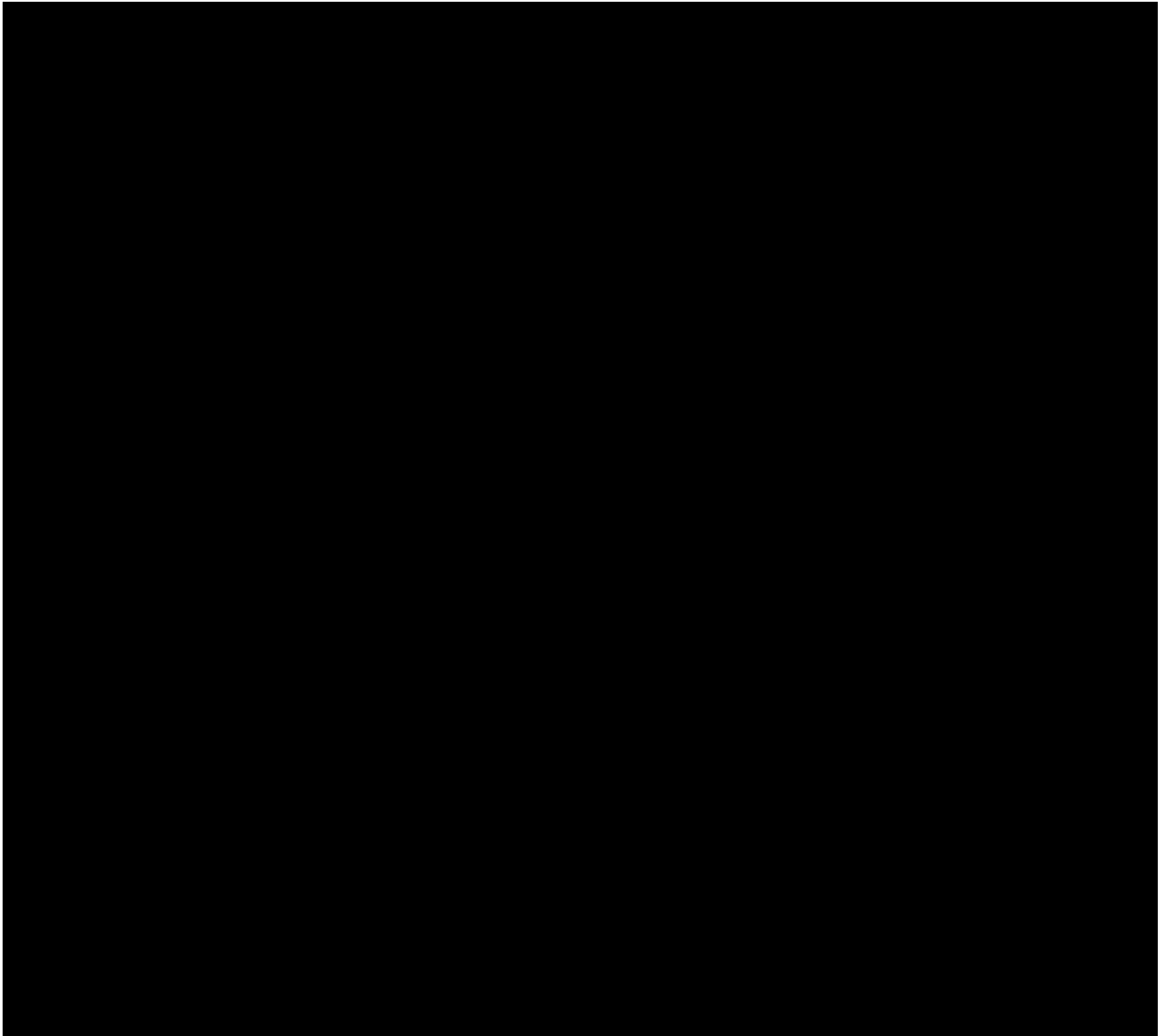
ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

September 19, 2019

Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St, Suite 1410
Chicago, IL 60603

...2





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368 Pleasant View Drive

Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

October 9, 2019

Josalyn Ferguson

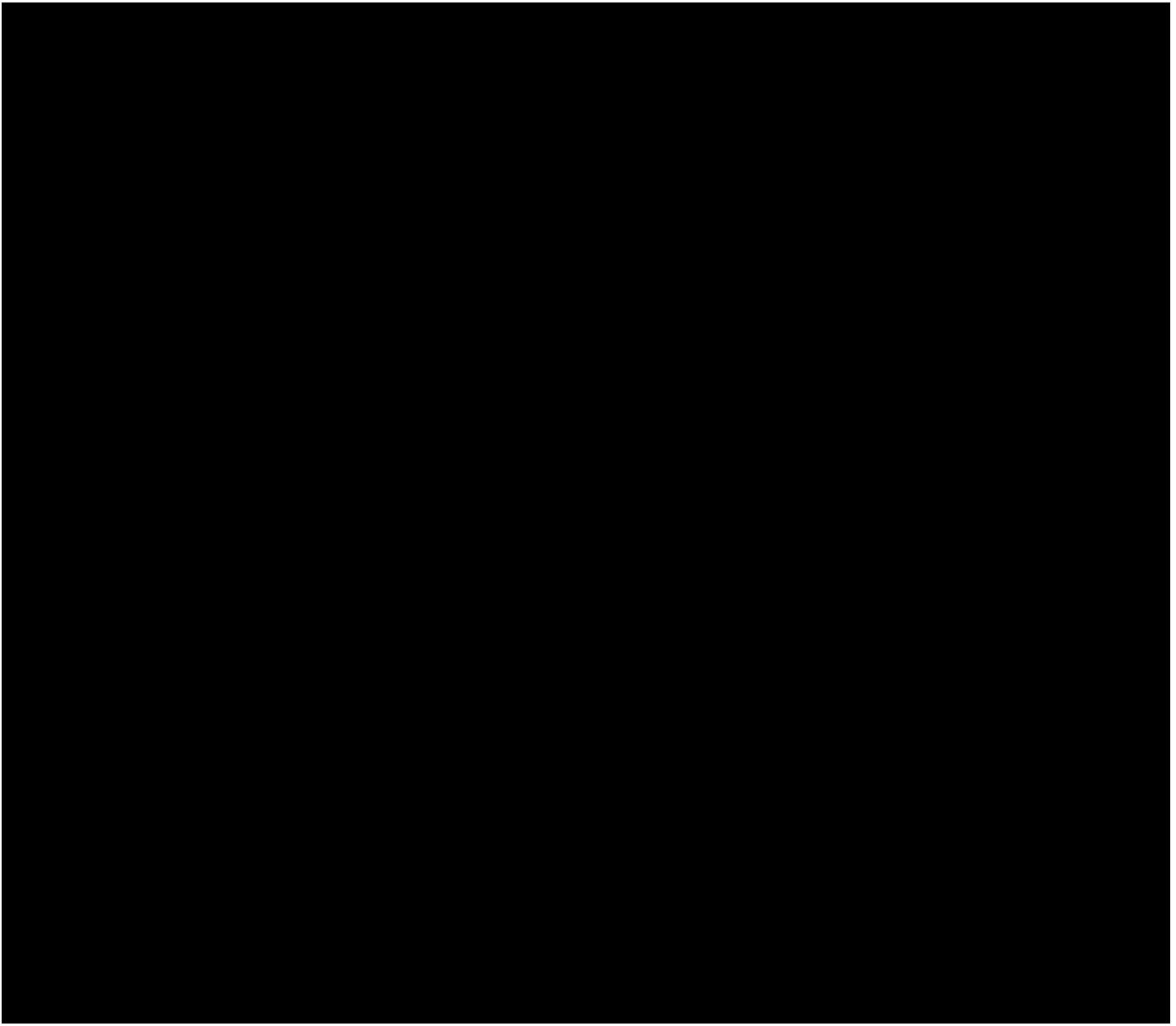
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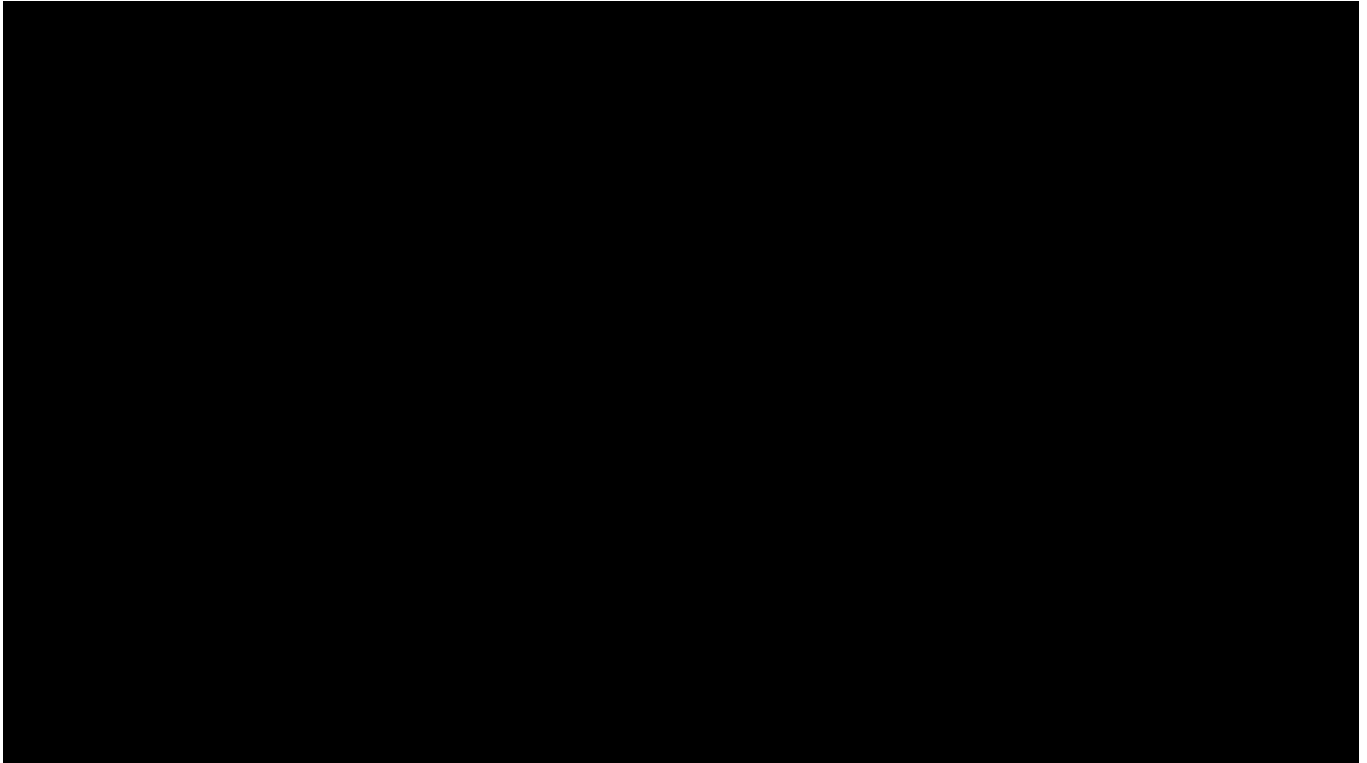
New York State Office of Parks, Recreation and Historic Preservation

Division of Historic Preservation

P.O. Box 189

Waterford, New York 12188-0189







Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

November 5, 2019

Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St, Suite 1410
Chicago, IL 60603



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368 Pleasant View Drive

Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

November 7, 2019

Josalyn Ferguson

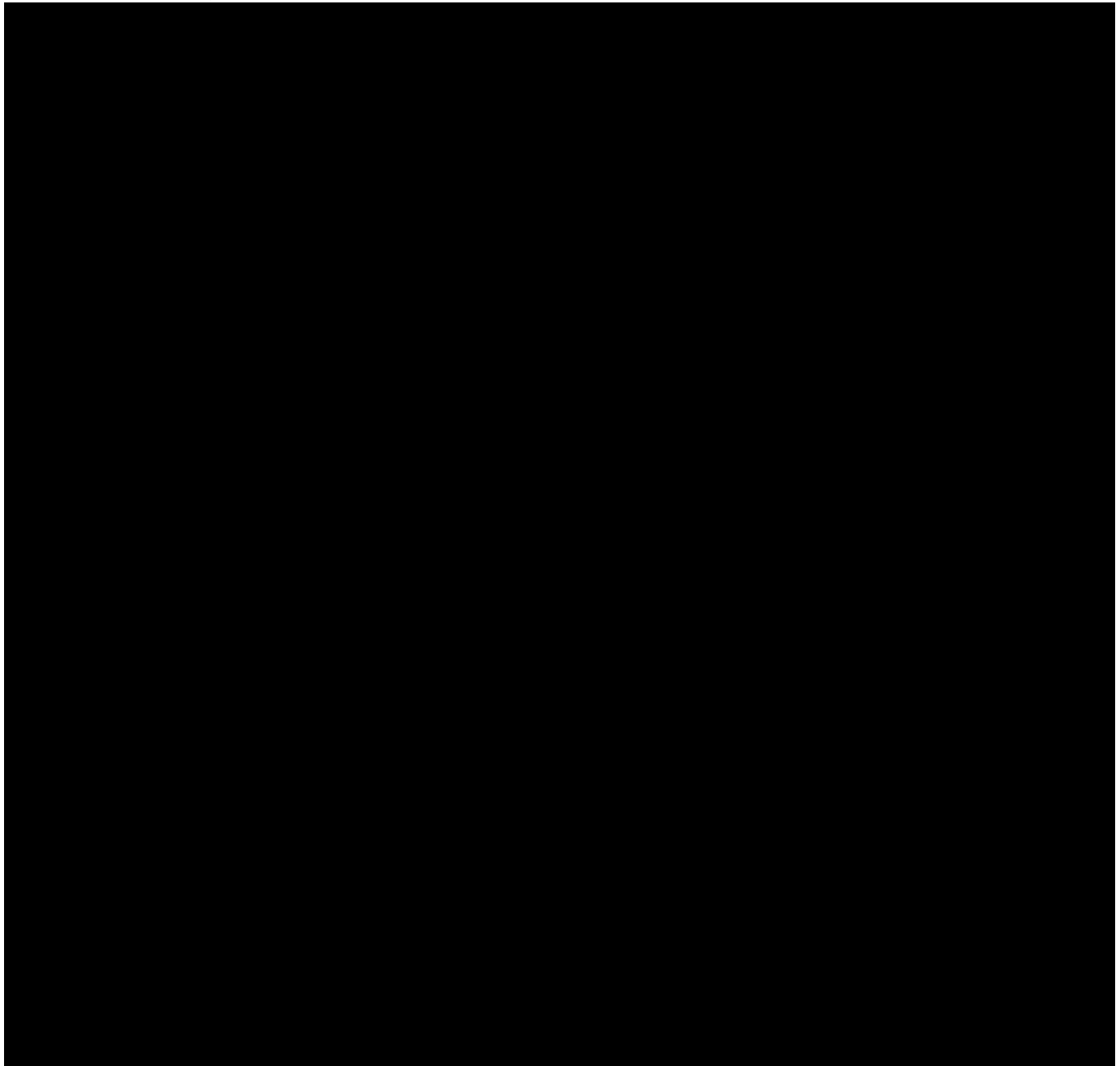
Historic Preservation Specialist/Archaeology

New York State Office of Parks, Recreation and Historic Preservation

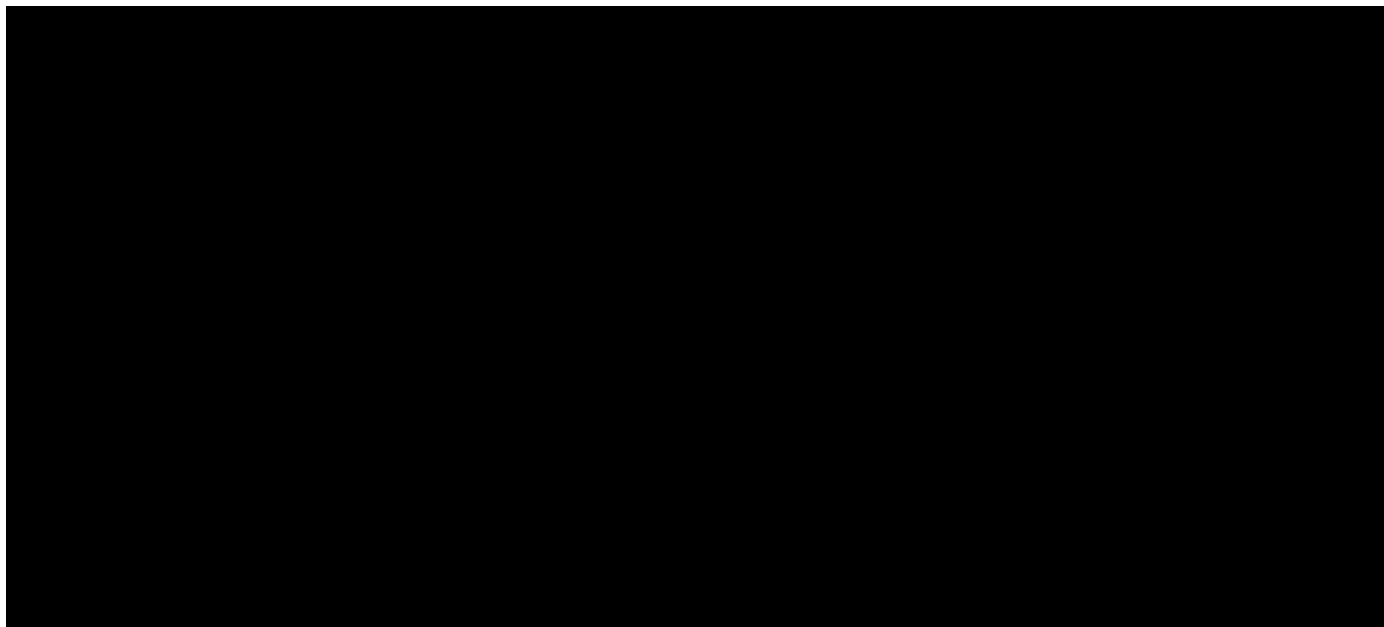
Division of Historic Preservation

P.O. Box 189

Waterford, New York 12188-0189



Josalyn Ferguson
November 7, 2019
Page 2





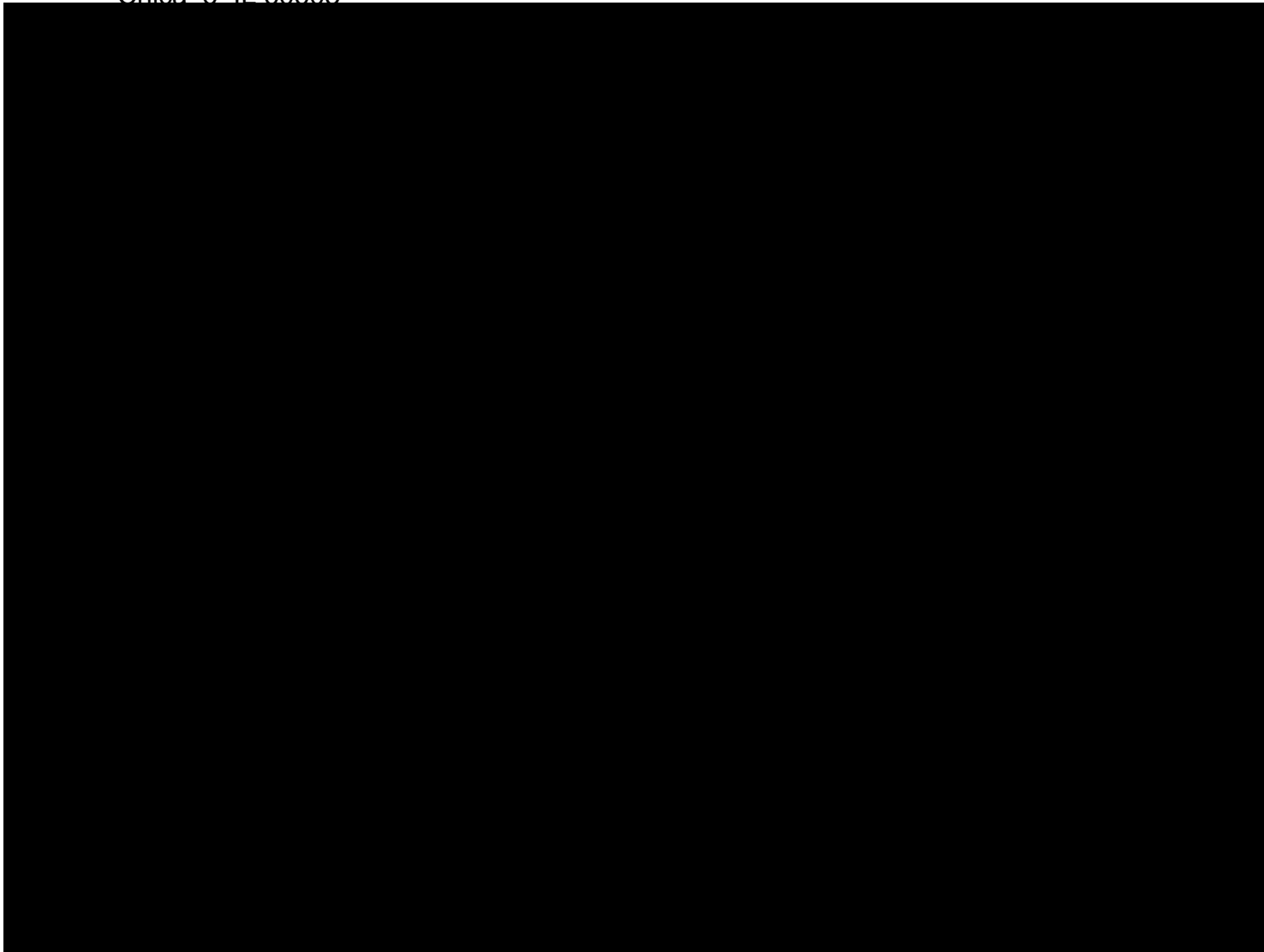
**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

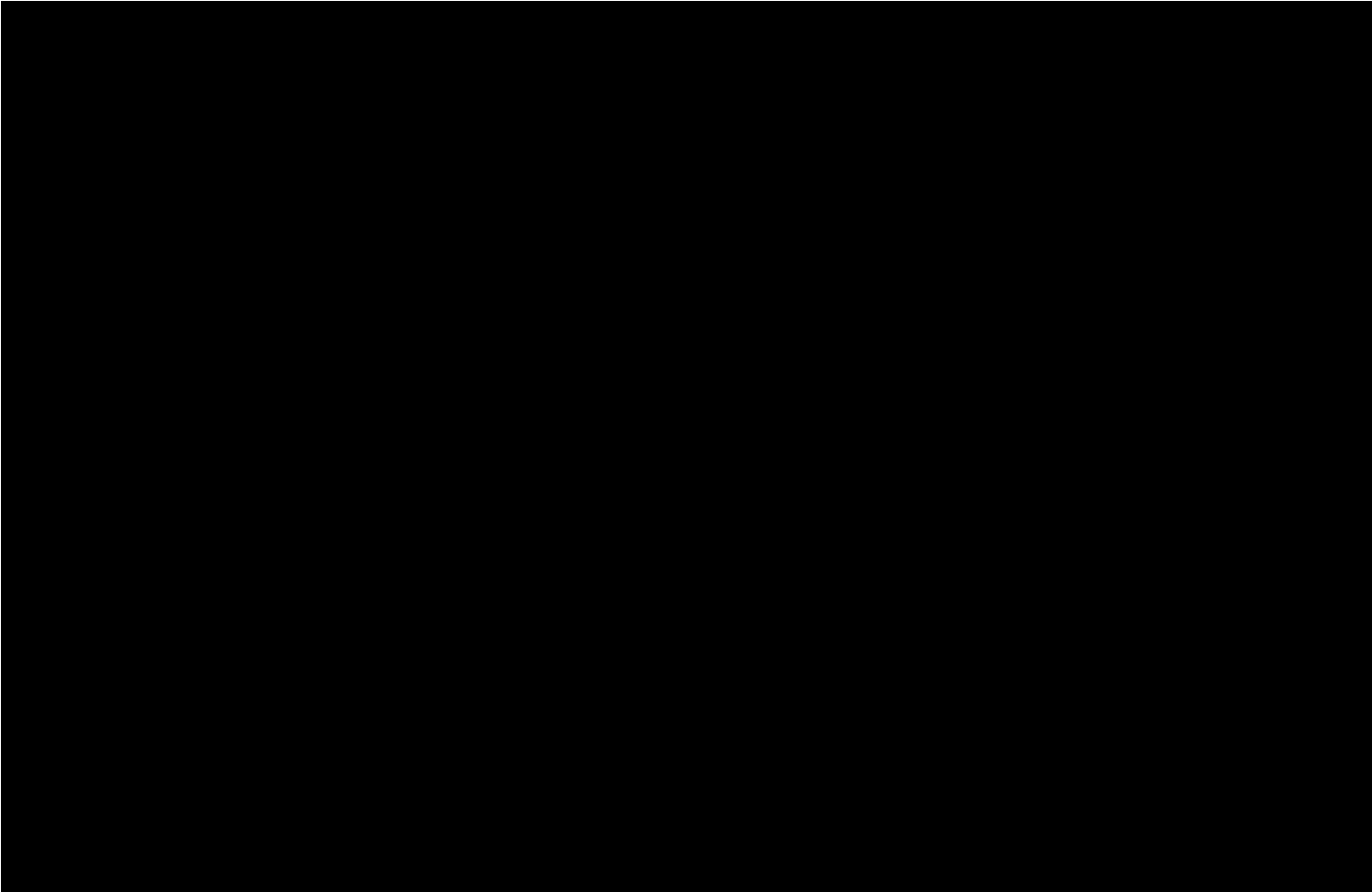
ERIK KULLESEID
Commissioner

November 8, 2019

Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St
Suite 1410
Chicago, IL 60603

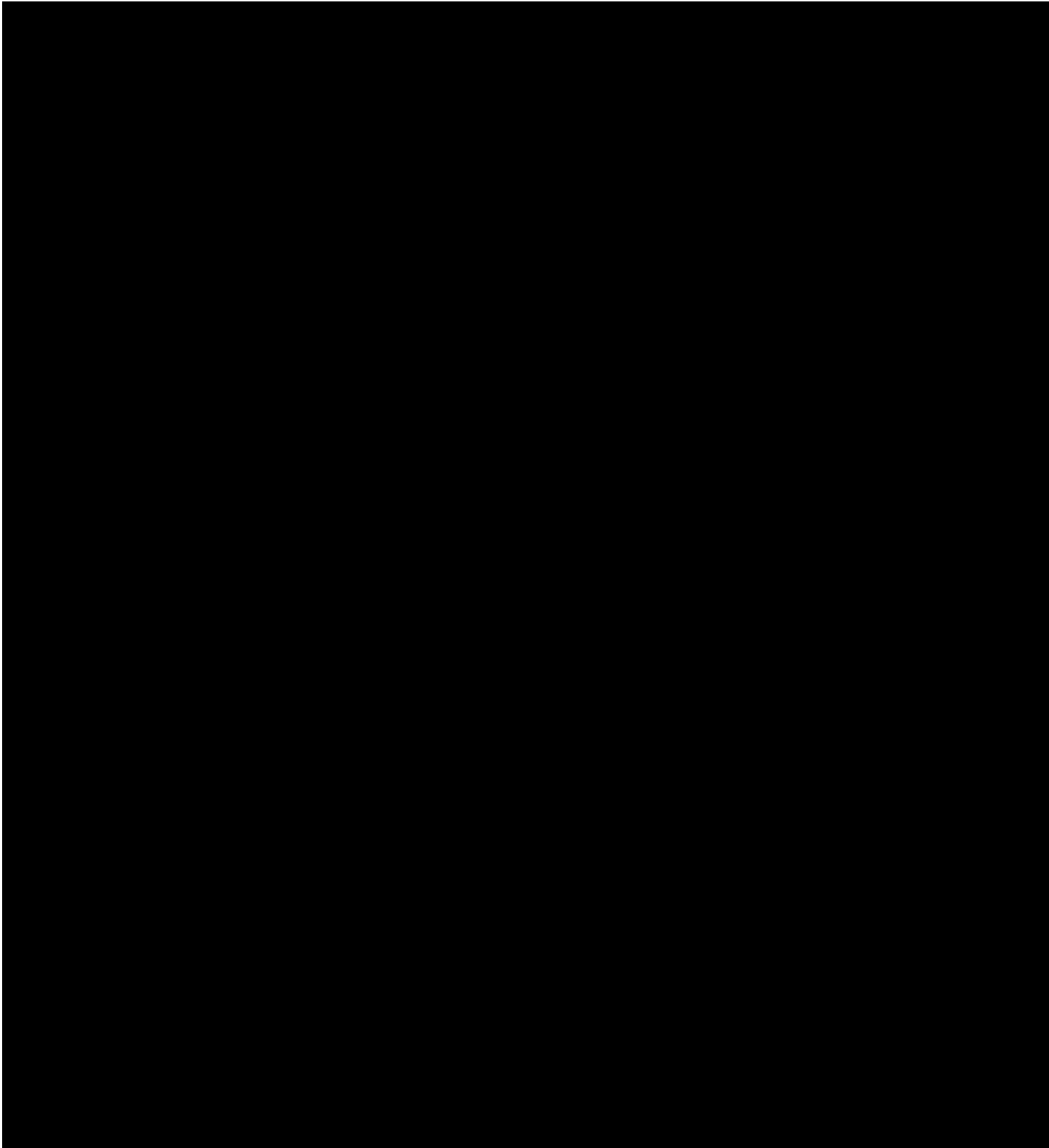


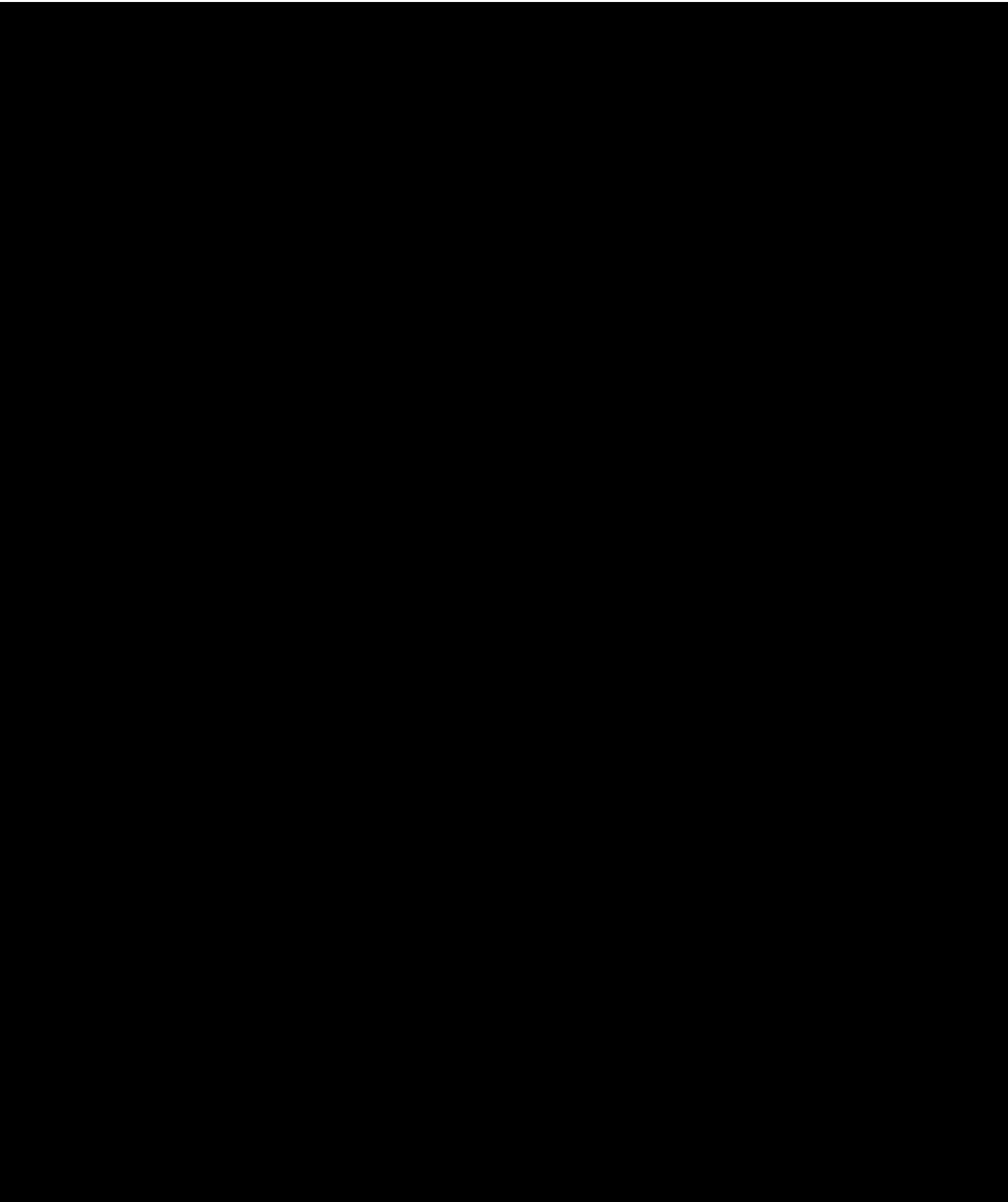
...2



Kirchler-Owen, Leslie

From: Robert Hanley <rhanley@panamconsultants.com>
Sent: Friday, February 21, 2020 12:47 PM
To: Josalyn (PARKS) Ferguson
Cc: Kirchler-Owen, Leslie; Natasha Snyder; Jeffrey Zuczek; johnbinh.vu@nexteraenergy.com;







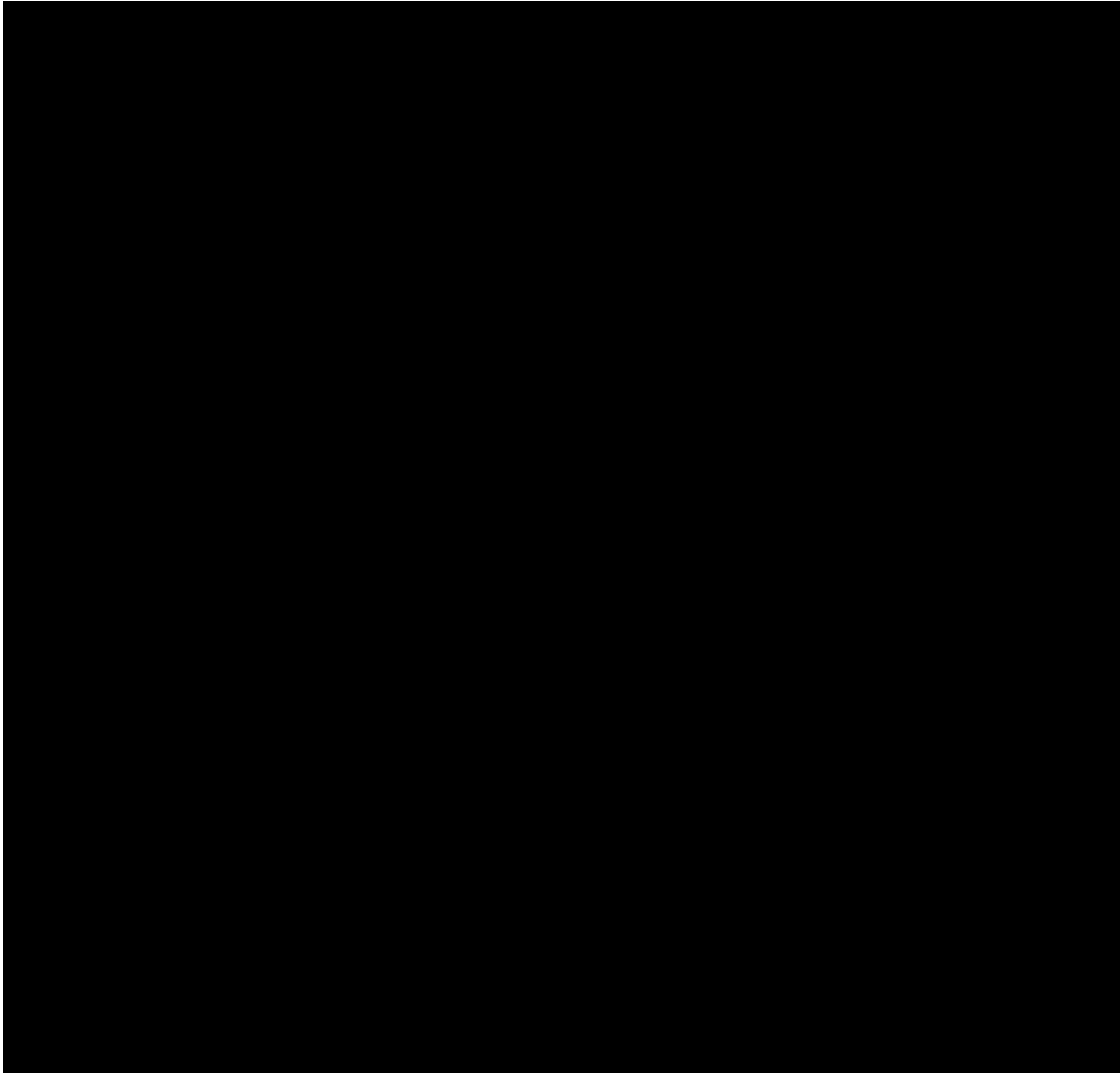
Parks, Recreation, and Historic Preservation

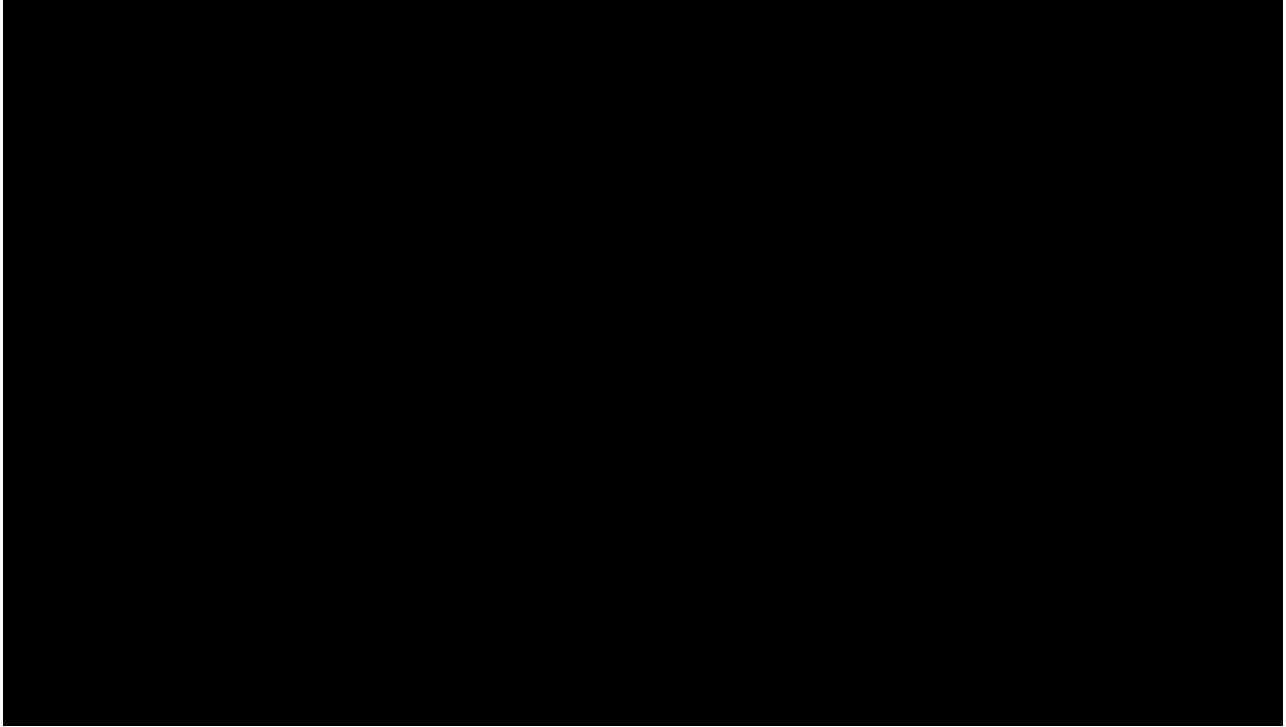
ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

February 24, 2020

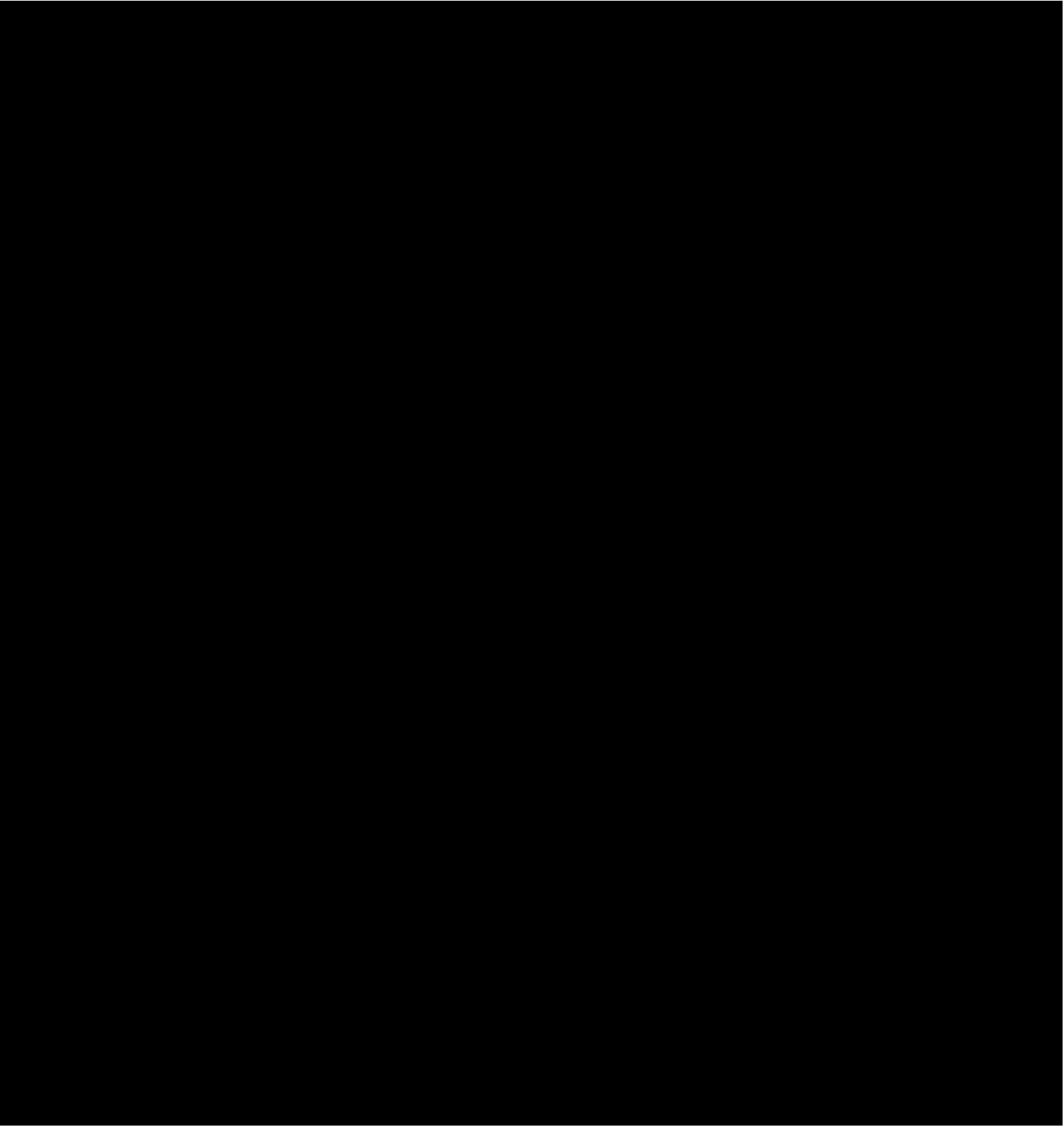
Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St, Suite 1410
Chicago, IL 60603

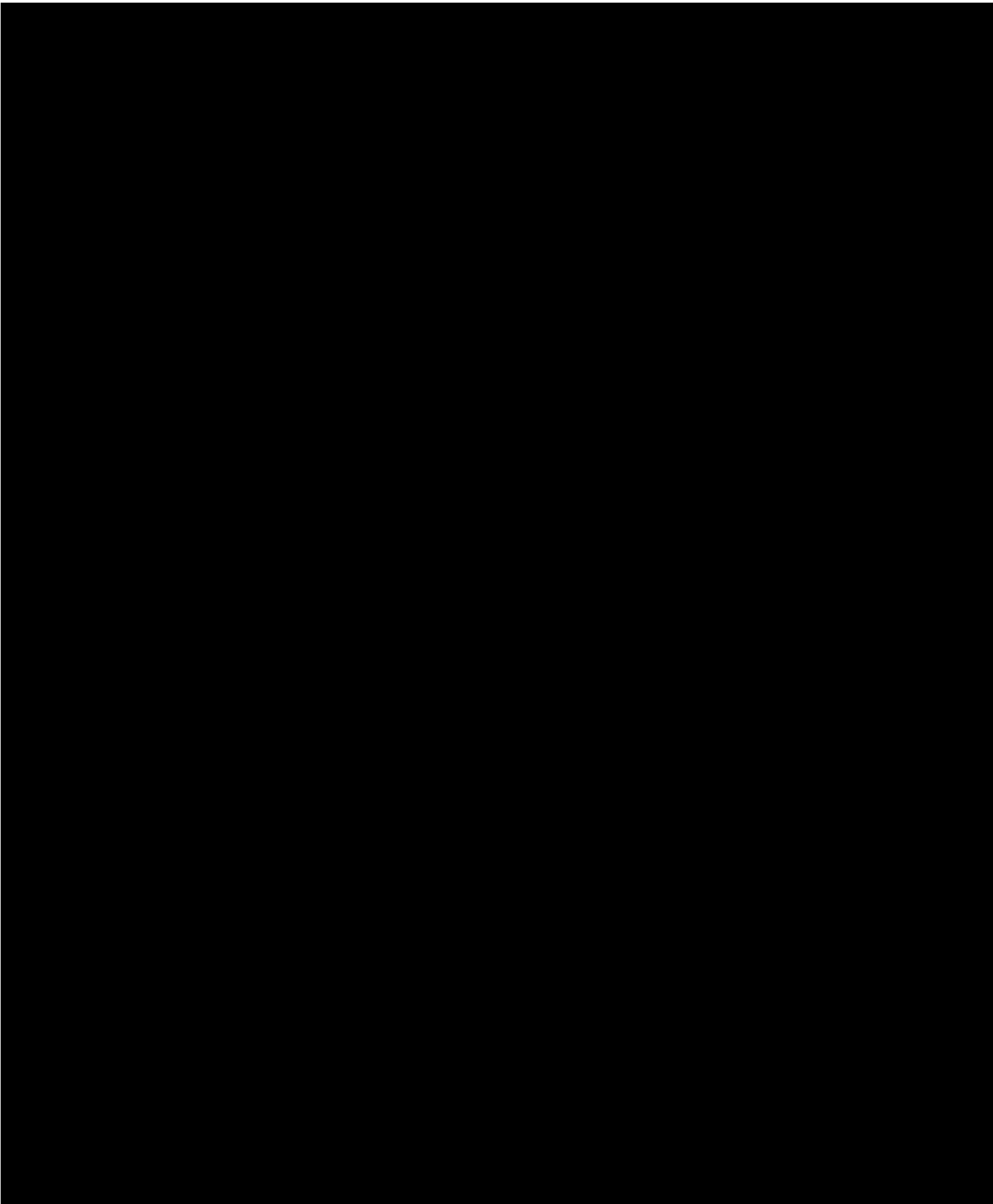




Snyder, Natasha

From: rhanley@panamconsultants.com
Sent: Monday, April 13, 2020 4:36 PM
To: 'Ferguson, Josalyn (PARKS)'
Cc: Kirchler-Owen, Leslie; 'Snyder, Natasha'; Netti, Gregory



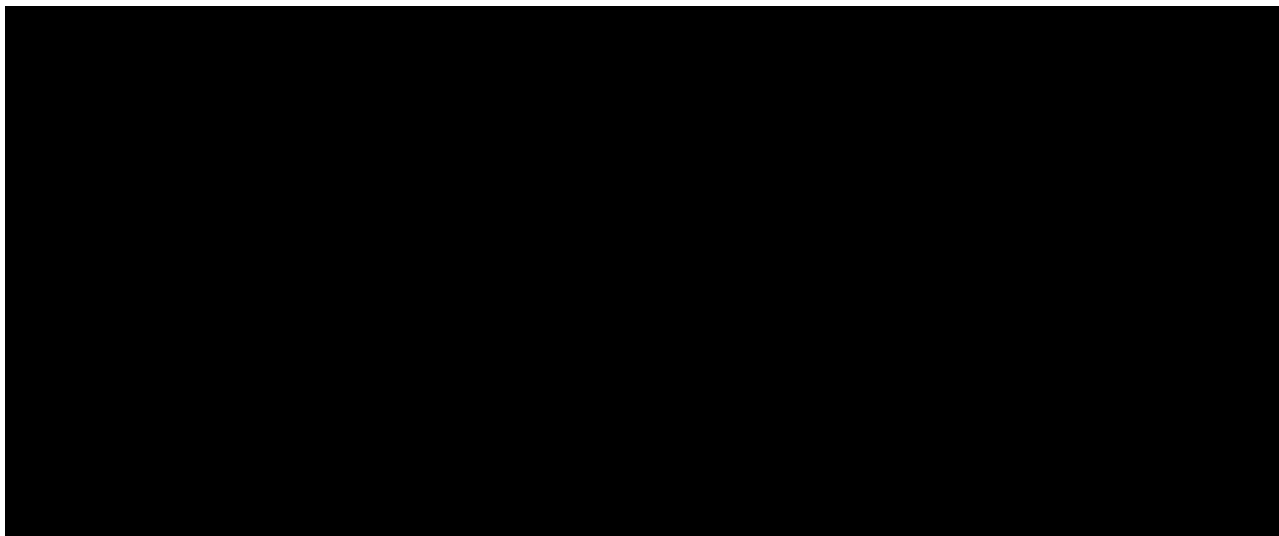


July 29, 2020

Josalyn Ferguson
Historic Preservation Specialist/Archaeology
New York State Office of Parks, Recreation and Historic Preservation
Division of Historic Preservation
P.O. Box 189
Waterford, New York 12188-0189

**Re: Addendum Phase II Archaeological Investigation of Precontact Site PCI/Empire
Transmission East Stolle Switchyard, (USN 02912.000171)
Town of Elma, Erie County, New York
18PR00737**

Dear Ms. Ferguson:



Sincerely,



Leslie Kirchler-Owen
Chief Cultural Resources Specialist

cc: Dr. Richard Estabrook, NextEra Energy Resources
Ms. Agnes Ramsey, NextEra Energy Resources
Ms. Natasha Snyder, NextEra Energy Resources
Mr. Greg Netti, Ecology and Environment, Inc.

Josalyn Ferguson
July 29, 2020
Page 2

enc: *Addendum Phase II Archaeological Investigation of Precontact Site PCI/Empire
Transmission East Stolle Switchyard, (USN 02912.000171), Town of Elma, Erie County,
New York
New York State Historic Preservation Office #18PR00737*



ecology and environment, inc.

Global Environmental Specialists

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October 3, 2019

Josalyn Ferguson

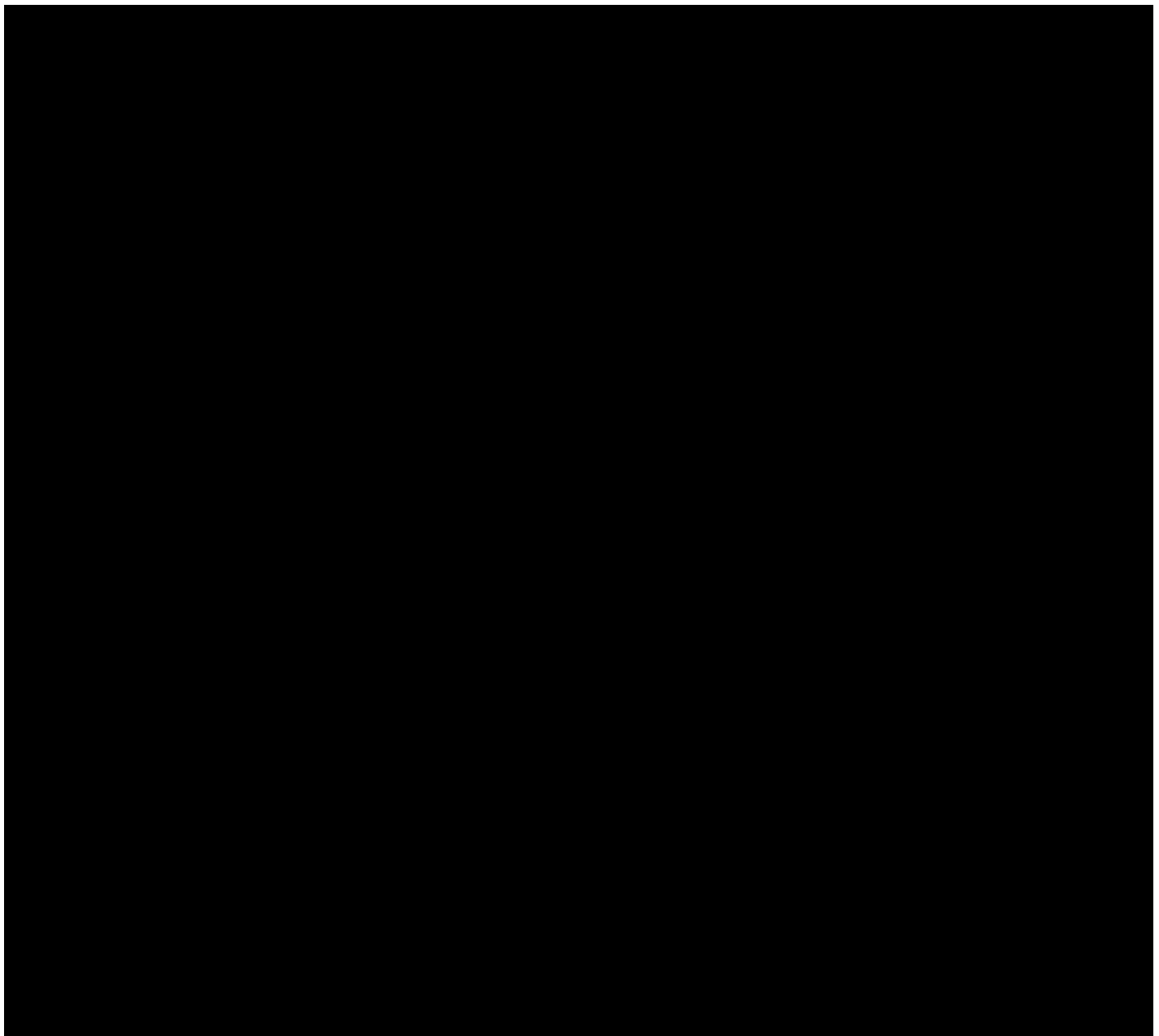
Historic Preservation Specialist/Archaeology

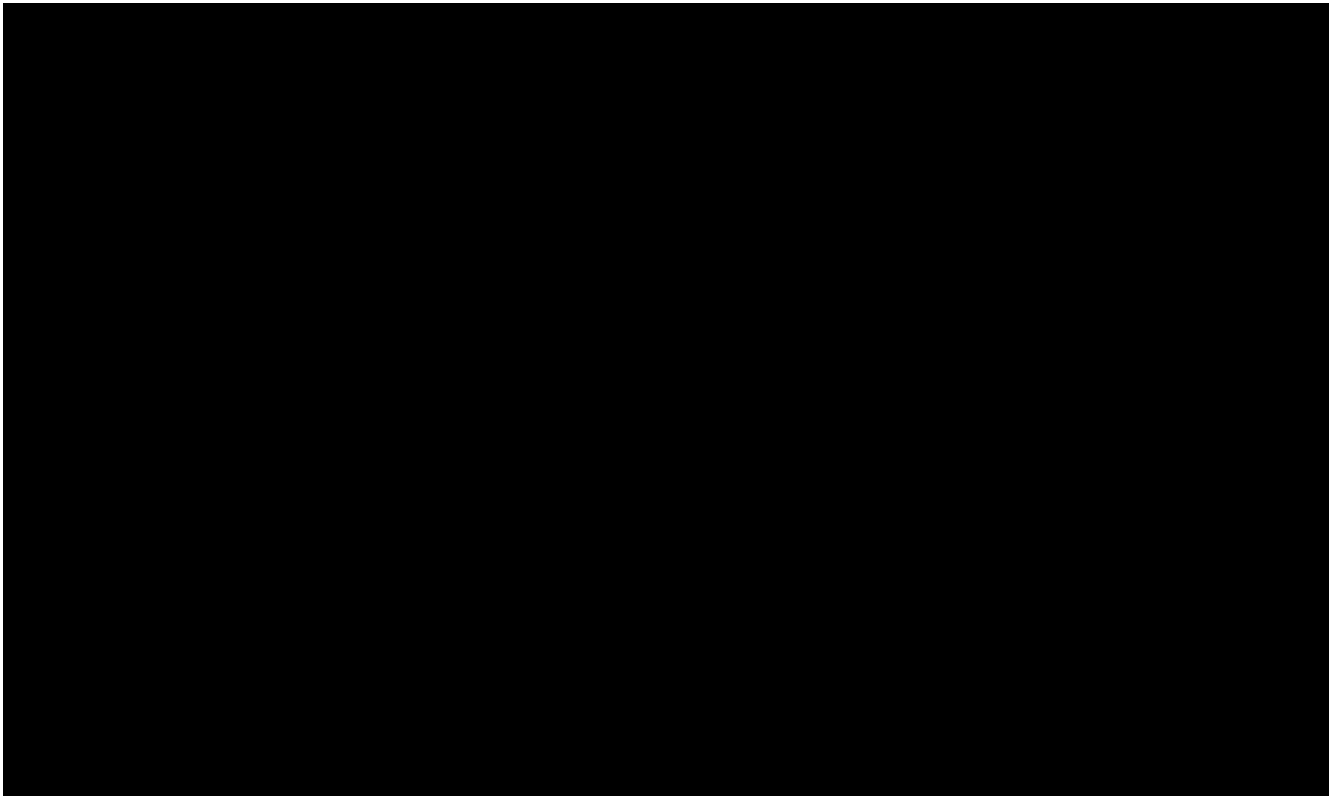
New York State Office of Parks, Recreation and Historic Preservation

Division of Historic Preservation

P.O. Box 189

Waterford, New York 12188-0189







33 West Monroe St., Suite 1410
Chicago, IL 60603
Tel: (312) 578-9243 Fax: (312) 578-9345

July 15, 2020

Josalyn Ferguson
Historic Preservation Specialist/Archaeology
New York State Office of Parks, Recreation and Historic Preservation
Division of Historic Preservation
P.O. Box 189
Waterford, New York 12188-0189

**Re: Revised Avoidance Plan for Precontact Site PCI/Empire Line-1 (USN 02919.000048)
Empire State Line Project
Towns of Alden, Elma, Lancaster and Newstead, Erie County and Royalton,
Niagara County, NY
18PR00737**

Dear Dr. Ferguson:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,

Leslie Kirchler-Owen
Chief Cultural Resources Specialist

cc: Dr. Richard Estabrook, NextEra Energy Resources
Ms. Agnes Ramsey, NextEra Energy Resources
Ms. Natasha Snyder, NextEra Energy Resources
Mr. Greg Netti, Ecology and Environment, Inc.

Dr. Ferguson
July 15, 2020

enc: *Revised - Avoidance Plan for Precontact Site PCI/Empire Line – 1 (USN 02919.000048).
Empire State Line Project, Town of Royalton, Niagara County, and Towns of Newstead,
Alden, Lancaster, and Elma, Erie County, New York. OPRHP#18PR00737.*



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

July 23, 2020

Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St, Suite 1410
Chicago, IL 60603

Re: USACE
Empire State Transmission Line Expansion & Development
Town of Royalton, Niagara County, and towns of Alden, Elma, Lancaster & Newstead,
Erie County, NY
18PR00737
Article 10 Project

Dear Dr. Kirchler-Owen:

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via e-mail only

c.c. Agnes Ramsey, Coke Coakley, Richard Estabrook & Natasha Snyder, NextEra Energy
Resources
c.c. Andrew Davis, DPS
c.c. Mike Higgins, DEC
c.c. Greg Netti, ENE
c.c. Heather Adams & Steve Metivier, USACE
c.c. Mike Saviola, NYS Dept. of Agriculture & Markets
c.c. Robert Hanley, Panamerican Consultants



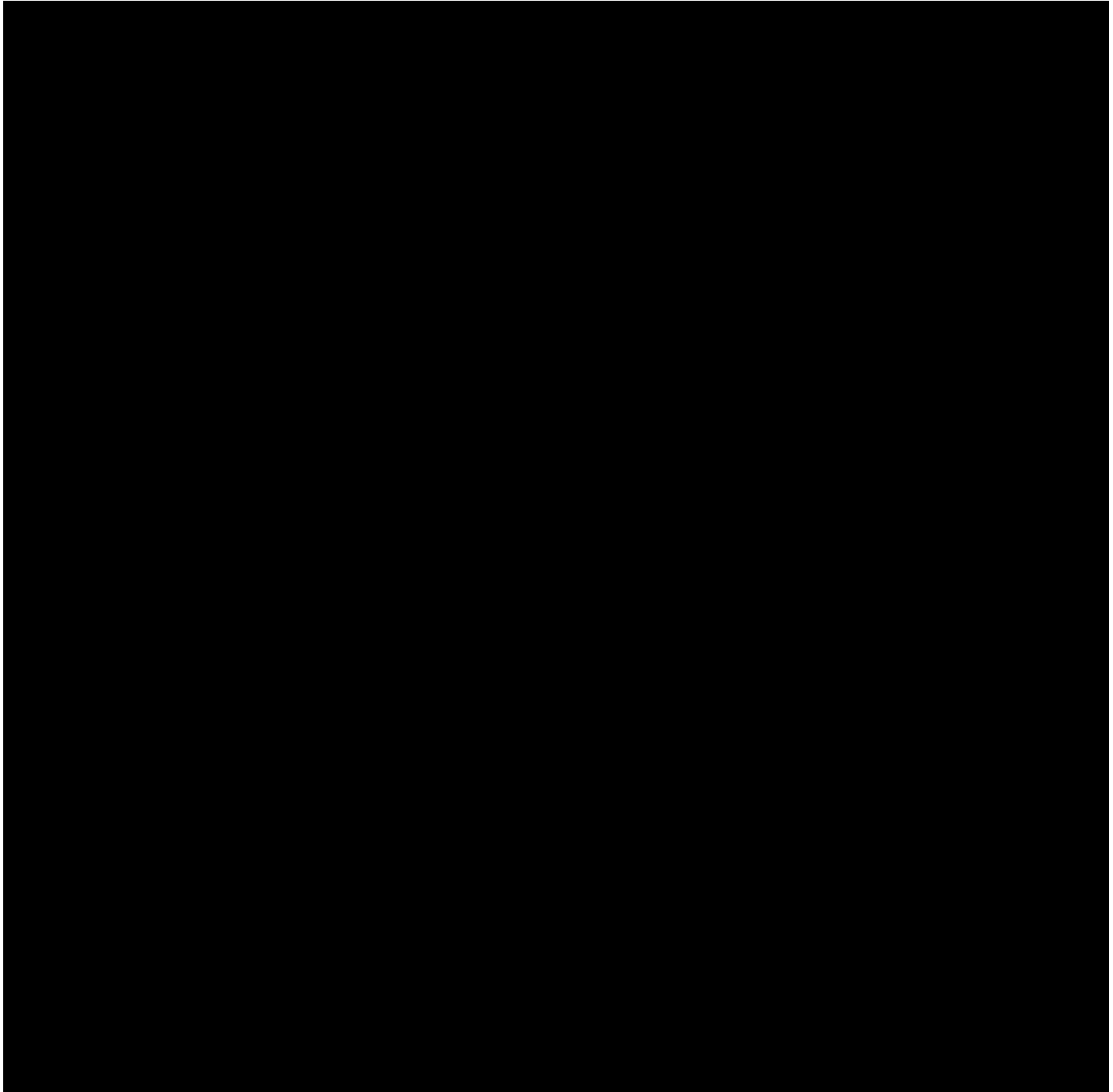
Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

May 18, 2020

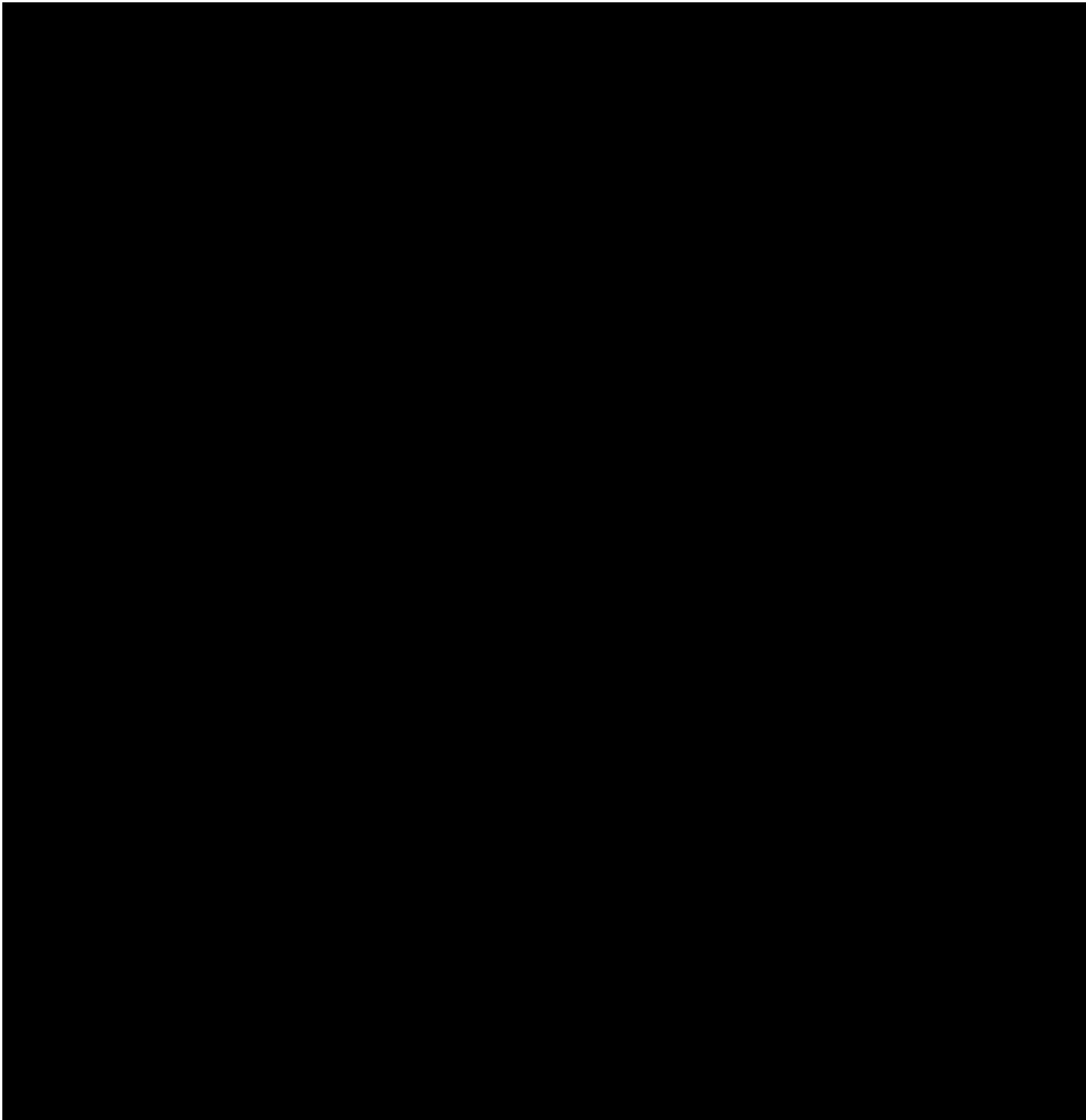
Dr. Leslie Kirchler-Owen
E&E
33 West Monroe St, Suite 1410
Chicago, IL 60603



Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • parks.ny.gov

Dr. Leslie Kirchler-Owen
May 18, 2020
Page 2.





ecology and environment, inc.

Global Environmental Specialists

BUFFALO CORPORATE CENTER

368 Pleasant View Drive

Lancaster, New York 14086

Tel: (716) 684-8060, Fax: (716) 684-0844

February 11, 2019

James Finelli

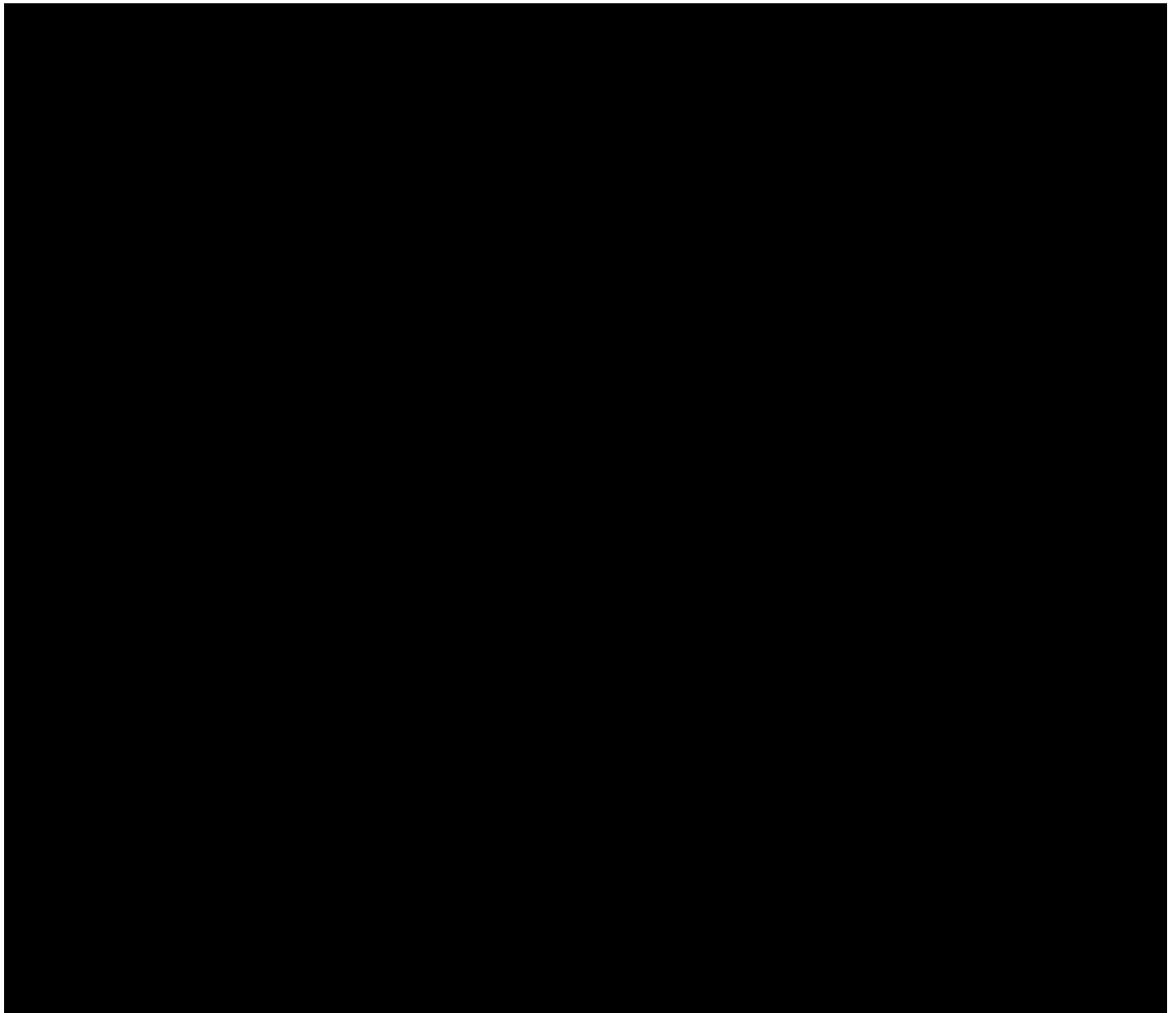
Historic Preservation Specialist/Survey and CLG Unit

New York State Office of Parks, Recreation and Historic Preservation

Division of Historic Preservation

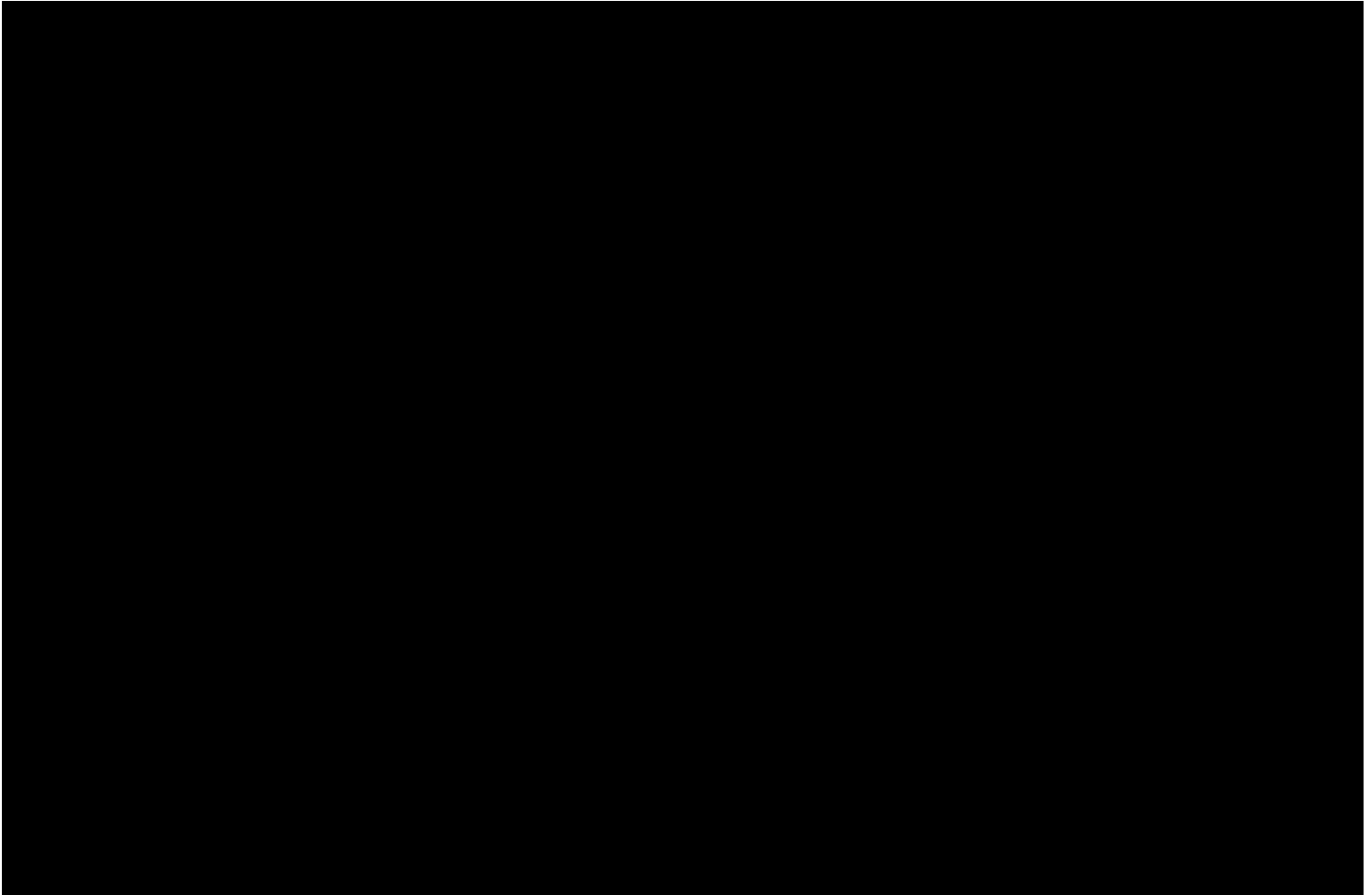
P.O. Box 189

Waterford, New York 12188-0189



Kirchler-Owen, Leslie

From: Bonafide, John (PARKS) <John.Bonafide@parks.ny.gov>
Sent: Monday, March 25, 2019 11:05 AM
To: Kirchler-Owen, Leslie



E
r

ERIE COUNTY SWCD CORRESPONDENCE

Cervi, Lea

From: Cervi, Lea
Sent: Tuesday, September 1, 2020 5:12 PM
To: Young, Allen - NRCS-CD, East Aurora, NY
Cc: johnbinh.vu@nexteraenergy.com; jeffrey.Zuczek@nexteraenergy.com; Netti, Gregory; Natasha B. Snyder (Natasha.Snyder@nexteraenergy.com); Doug Johnston
Subject: RE: Empire State Line Meeting Follow-up

Good afternoon.

Based on our phone conversation on August 28, 2020, the revised Appendix K (Drainage Line Repair Plan) provided to you on August 24, 2020 addressed all your concerns and is considered final.

Thank you very much for your time and feedback.

Kind regards,

Lea Cervi

m: 716-341-9216

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From: Cervi, Lea
Sent: Monday, August 24, 2020 10:38 AM
To: Young, Allen - NRCS-CD, East Aurora, NY <Allen.Young@ny.nacdnet.net>
Cc: johnbinh.vu@nexteraenergy.com; jeffrey.Zuczek@nexteraenergy.com; Netti, Gregory <GNetti@ene.com>; Natasha B. Snyder (Natasha.Snyder@nexteraenergy.com) <Natasha.Snyder@nexteraenergy.com>; Doug Johnston <Doug.Johnston@eciusa.com>
Subject: RE: Empire State Line Meeting Follow-up

Good morning,

Thank you for your feedback, please see attached the revised Plan. If you have further feedback or questions, please kindly provide by 9/4 so we can incorporate on our end for formal submittal.

Thank you,

Lea Cervi

m: 716-341-9216

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From: Young, Allen - NRCS-CD, East Aurora, NY <Allen.Young@ny.nacdnet.net>

Sent: Monday, August 10, 2020 4:24 PM

To: Cervi, Lea <VCervi@ene.com>

Cc: johnbinh.vu@nexteraenergy.com; jeffrey.zuczek@nexteraenergy.com; Netti, Gregory <GNetti@ene.com>; Natasha B. Snyder (Natasha.Snyder@nexteraenergy.com) <Natasha.Snyder@nexteraenergy.com>

Subject: RE: Empire State Line Meeting Follow-up

Lea,

Thank you for sending over the drainage tile repair specification. It appears adequate, however the drawing only lists plastic drainage pipe and there is a fair amount of "clay" tile that is installed in the county. Also in the drawing it has an indication for a typical cross section but one is not shown (A-A). Is this drawing representing all area where tile is damaged or only where crossed by temporary and permanent roads? Also where the drawing shows the stripped subsoil and native soil it appears that topsoil will not be replaced?

Thanks,

*Allen Young, CCA
Water Quality Technician
Erie County Soil and Water Conservation District
50 Commerce Way
East Aurora, NY 14052
Phone: (716) 652-8480, ext. 5
FAX: (716) 652-8506
www.ecswcd.org*

From: Cervi, Lea <VCervi@ene.com>

Sent: Monday, August 10, 2020 1:03 PM

To: Young, Allen - NRCS-CD, East Aurora, NY <Allen.Young@ny.nacdnet.net>

Cc: johnbinh.vu@nexteraenergy.com; jeffrey.zuczek@nexteraenergy.com; Netti, Gregory <GNetti@ene.com>; Natasha B. Snyder (Natasha.Snyder@nexteraenergy.com) <Natasha.Snyder@nexteraenergy.com>

Subject: RE: Empire State Line Meeting Follow-up

Good afternoon, per our earlier conversation, I am sending you the Drainage Line Repair Plan included as Appendix K of the EM&CP filed on June 24 for your review. Appendix number has changed, but it is the same plan as in our April 10 correspondence.

Please feel free to contact me if you have any questions.

Kind regards,

Lea Cervi

From: Cervi, Lea <VCervi@ene.com>

Sent: Friday, April 10, 2020 9:23 AM

To: Netti, Gregory <GNetti@ene.com>; Gaston, Mark - NRCS-CD, East Aurora, NY <Mark.Gaston@ny.nacdnet.net>;

Young, Allen - NRCS-CD, East Aurora, NY <Allen.Young@ny.nacdnet.net>

Cc: Zuczek, Jeffrey <Jeffrey.Zuczek@nexteraenergy.com>; johnbinh.vu@nexteraenergy.com; Coakley, Coke

<Coke.Coakley@nexteraenergy.com>

Subject: Empire State Line Meeting Follow-up

Mark and Allen,

As a follow-up to our in person meeting on February 13, I am forwarding to you our Draft Drainage Line Repair Plan, forgive the duplication if I had sent this previously. Please let us know if you have any suggestions or concerns with the attached plan.

Stay safe

Lea

Lea (Vassilia) Cervi , P.G.

Chief Geologist/Project Manager

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