APPENDICES

Appendix A – Agency Letters and Responses

A-1. Email response from ODNR dated August 2, 2011
A-2. Email response from OSM dated August 8, 2011
A-3. Letter response from NRCS dated August 1, 2011
A-4. Phone memo via email documenting response from OHPO that occurred August 1, 2011
A-5. Letter response from USFWS dated August 22, 2011
A-6. Letter response from USFWS dated September 28, 2011
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A-8. Letter response from OEPA dated October 6, 2011
A-9. Memo to USFWS dated October 25, 2011
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A-11. Email response from USFWS dated November 22, 2011
A-13. Memo to USFWS dated December 7, 2011
A-13. Concurrence letter from OHPO dated December 14, 2011
A-14. Concurrence letter from OHPO dated December 21, 2011
A-15. Memo to USFWS dated December 27, 2011

A-1

"McGee, Lauren - Washington, DC" <Lauren.McGee@wdc.usda.gov>
08/03/2011 09:06 AM

To "Jim_Burns@urscorp.com" <Jim_Burns@urscorp.com>
cc
bcc
Subject FW: 11-0282; Turning Point Solar LLC 49.9 MW Energy Generation Project

From: Mitch, Brian [mailto:Brian.Mitch@dnr.state.oh.us]
Sent: Tuesday, August 02, 2011 10:55 AM
To: McGee, Lauren - Washington, DC
Cc: apolka.totth@agileenergy.com
Subject: 11-0282; Turning Point Solar LLC 49.9 MW Energy Generation Project

ODNR COMMENTS TO Ms. Lauren McGee, 1400 Independence Avenue, Washington, DC 20250

Project: The project involves construction a 49.9 MW solar energy generation project on 771 acres of land in Brookfield, Township, Noble County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Fish and Wildlife: The ODNR, Division of Wildlife (DOW) has the following comments.

The project is within the range of the Indiana bat (*Myotis sodalis*), a state and federally endangered species. The following species of trees have relatively high value as potential Indiana bat roost trees: Shagbark hickory (*Carya ovata*), Shellbark hickory (*Carya laciniosa*), Bitternut hickory (*Carya cordiformis),* Black ash (*Fraxinus nigra*), Green ash (*Fraxinus pennsylvanica*), White ash (*Fraxinus americana*), Shingle oak (*Quercus imbricaria*), Northern red oak (*Quercus rubra*), Slippery elm (*Ulmus rubra*), American elm (*Ulmus americana*), Eastern cottonwood (Populus deltoides), Silver maple (*Acer saccharinum*), Sassafras (*Sassafras albidum*), Post oak (*Quercus stellata*), and White oak (*Quercus alba*). Indiana bat habitat consists of suitable trees that include dead and dying trees of the species listed above with exfoliating bark, crevices, or cavities in upland areas or riparian corridors and living trees of the species listed above with exfoliating bark, cavities, or hollow areas formed from broken branches or tops. If suitable trees occur within the project area, these trees must be conserved. If suitable habitat occurs on the project area and trees must be cut, cutting must occur between September 30 and April 1. If suitable trees must be cut during the summer months of April 2 to September 29, a net survey must be conducted in May or June prior to cutting. If no tree removal is proposed, the project is not likely to impact this species.

The project is within the range of the bald eagle (*Haliaeetus leucocephalus*), a state threatened species. However, the Ohio Biodiversity Database currently has no records of this species near the project area.

The project is within the range of the black bear (*Ursus americanus*), a state endangered species, and the bobcat (*Lynx rufus*), a state endangered species. The Ohio Biodiversity Database also has a record for the bobcat within or near the three potential project sites. However, due to the mobility of these species, the project is not likely to have an impact on these species.

The project is within the range of the Northern harrier (*Circus cyaneus*), a state endangered bird. This is a common migrant and winter species. Nesters are much rarer, although they occasionally breed in large marshes and grasslands. Harriers often nest in loose colonies. The female builds a nest out of sticks on the ground, often on top of a mound. Harriers hunt over grasslands. A statewide survey has not been completed for this species. A lack of records does not indicate the species is absent from the area. Therefore, if this type of habitat will be impacted, construction must not occur in this habitat during the species' nesting period of May 15 to August 1. If this habitat will not be impacted, the project is not likely to impact this species.

The Ohio Biodiversity Database has the following records within or near the three potential project sites. Locations are shown on the attached maps.

Site 1, Cumberland Quad, Cumberland Quad, Muskingum Co.
Pandion haliaetus - Osprey, state threatened

Site 2, Cumberland Quad, Noble Co.
Lynx rufus - Bobcat, state endangered

Site 3, Reinersville Quad, Morgan Co.
Accipiter striatus - Sharp-shinned Hawk, state species of concern

Geological Survey: The ODNR, Division of Geological Survey recommends that the contractor check for potential Abandoned Underground Mines (AUMs), abandoned oil & gas wells, and strip mining at the site.

ODNR appreciates the opportunity to provide these comments. Please contact Brian Mitch at (614) 265-6378 if you have questions about these comments or need additional information.

Brian Mitch, Environmental Review Manager
Ohio Department of Natural Resources
Environmental Services Section
2045 Morse Road, Building E-3
Columbus, Ohio 43229-6693
Office: (614) 265-6378
Fax: (614) 262-2197
brian.mitch@dnr.state.oh.us

A-2

"McGee, Lauren - Washington, DC"
<Lauren.McGee@wdc.usda.gov>
08/08/2011 12:57 PM

To "Jim_Burns@urscorp.com" <Jim_Burns@urscorp.com>
cc Apolka Totth <Apolka.Totth@agileenergy.com>
bcc
Subject FW: Comments on RUS FR Notice of 6-27-11 (Turning Point Solar)

History: This message has been replied to.

From: Sheffield, Steven [mailto:ssheffield@osmre.gov]
Sent: Monday, August 08, 2011 8:07 AM
To: McGee, Lauren - Washington, DC
Subject: Comments on RUS FR Notice of 6-27-11
Importance: High

Ms. Lauren McGee, Environmental Scientist
USDA Rural Utilities Service
Engineering and Environmental Staff
1400 Independence Avenue, SW, Room 2244-S
Washington, DC 20250-1571

Subject:

Rural Utilities Service, Department of Agriculture;
Notice of Intent to Hold a Public Scoping Meeting and Prepare an Environmental Assessment;
Turning Point Solar, LLC, Photovoltaic Generating Facility, Noble County, Ohio;
Federal Register (Vol. 76, No. 123; June 27, 2011)

Dear Ms. McGee:

Following review of the subject Federal Register Notice, and after consulting with other staff within the Office of Surface Mining Reclamation and Enforcement (OSM), we offer the following comments.

We understand that the NEPA lead agency is aware that the proposed project site was mined and reclaimed by the Central Ohio Coal Company; however, we are uncertain whether the 771 acres proposed to be disturbed have received a full and final performance bond release. If the proposed project contemplates construction on any portion of the reclaimed mine site that has not yet received final bond release, the project could potentially conflict with the land use currently approved by the regulatory authority under the *Surface Mining Control and Reclamation Act (SMCRA).*

To avoid any potential land use conflicts between the proposed project and the SMCRA approved land use, the NEPA Lead Agency should coordinate activities with the Ohio Division of

Mineral Resources (ODMR) and the Central Ohio Coal Company. As the SMCRA regulatory authority for coal mining and reclamation activities in Ohio, ODMR is responsible for bond release determinations and land use decisions.

At your convenience, please acknowledge receipt of this transmittal. If you have any questions or need additional information, feel free to contact Ms. Li-Tai Bilbao of the Division of Regulatory Support here at OSM: lbilbao@osmre.gov or (202) 208-2895. Also, please note that these comments reflect the views of OSM staff and not necessarily those of the Department of the Interior.

We appreciate the opportunity to comment on this Notice.

Sincerely,

Steve Sheffield
Acting Chief, Division of Regulatory Support

United States Department of Agriculture

NRCS

A-3

Natural Resources Conservation Service
9711 East Pike, Cambridge, Ohio 43725
(740) 432-5621 Fax (740) 432-2833

August 11, 2011

James F Burns
URS Corporation
1375 Euclid Ave, Suite 600
Cleveland, Oh 44115

Dear Mr. Burns:

I am responding to your request for a Farmland Conversion Impact Rating for Turning Point Solar in Brookfield Township, Noble County, Ohio as indicated on the map you e-mailed to me map. It was indicated that there will be 480.2 acres to be converted directly and 99.9 acres to be converted indirectly; for a total of 580.1 acres.

Enclosed is the AD-1006 form. According to the Noble County Soil Survey Sheet 19, there are no prime, unique, or important farmland soil units in the delineated area. .

If you have questions please contact the NRCS Service Center office at 432-5621 extension 3.

Kim M Ray
District Conservationist

U.S. Department of Agriculture

FARMLAND CONVERSION IMPACT RATING

PART I *(To be completed by Federal Agency)*	Date Of Land Evaluation Request 8/8/11
Name Of Project Turning Point Solar	Federal Agency Involved USDA's Rural Utilities Service
Proposed Land Use photovoltaic solar generation facility	County And State Brookfield Twp., Noble County, Ohio
PART II *(To be completed by NRCS)*	Date Request Received By NRCS AUGUST 8, 2011

Does the site contain prime, unique, statewide or local important farmland? *(If no, the FPPA does not apply -- do not complete additional parts of this form).*	Yes ☐	No ☒	Acres Irrigated 0	Average Farm Size 178 Ac.

Major Crop(s) HAY	Farmable Land In Govt. Jurisdiction Acres: 139,850 % 55	Amount Of Farmland As Defined in FPPA Acres: 21,952 % 9
Name Of Land Evaluation System Used PRODUCTIVITY INDEX	Name Of Local Site Assessment System —	Date Land Evaluation Returned By NRCS AUG 11, 2011

PART III *(To be completed by Federal Agency)*	Alternative Site Rating Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly	480.2			
B. Total Acres To Be Converted Indirectly	99.9			
C. Total Acres In Site	580.1	0.0	0.0	0.0
PART IV *(To be completed by NRCS)* Land Evaluation Information				
A. Total Acres Prime And Unique Farmland	0.0			
B. Total Acres Statewide And Local Important Farmland	0.0			
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted	0			
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value				
PART V *(To be completed by NRCS)* Land Evaluation Criterion Relative Value Of Farmland To Be Converted *(Scale of 0 to 100 Points)*	0 —	0	0	0

PART VI *(To be completed by Federal Agency)* Site Assessment Criteria *(These criteria are explained in 7 CFR 658.5(b)*	Maximum Points				
1. Area In Nonurban Use					
2. Perimeter In Nonurban Use					
3. Percent Of Site Being Farmed					
4. Protection Provided By State And Local Government					
5. Distance From Urban Builtup Area					
6. Distance To Urban Support Services					
7. Size Of Present Farm Unit Compared To Average					
8. Creation Of Nonfarmable Farmland					
9. Availability Of Farm Support Services					
10. On-Farm Investments					
11. Effects Of Conversion On Farm Support Services					
12. Compatibility With Existing Agricultural Use					
TOTAL SITE ASSESSMENT POINTS	160	0	0	0	0
PART VII *(To be completed by Federal Agency)*					
Relative Value Of Farmland *(From Part V)*	100	0	0	0	0
Total Site Assessment *(From Part VI above or a local site assessment)*	160	0	0	0	0
TOTAL POINTS *(Total of above 2 lines)*	260	0	0	0	0

Site Selected:	Date Of Selection	Was A Local Site Assessment Used? Yes ☐ No ☐

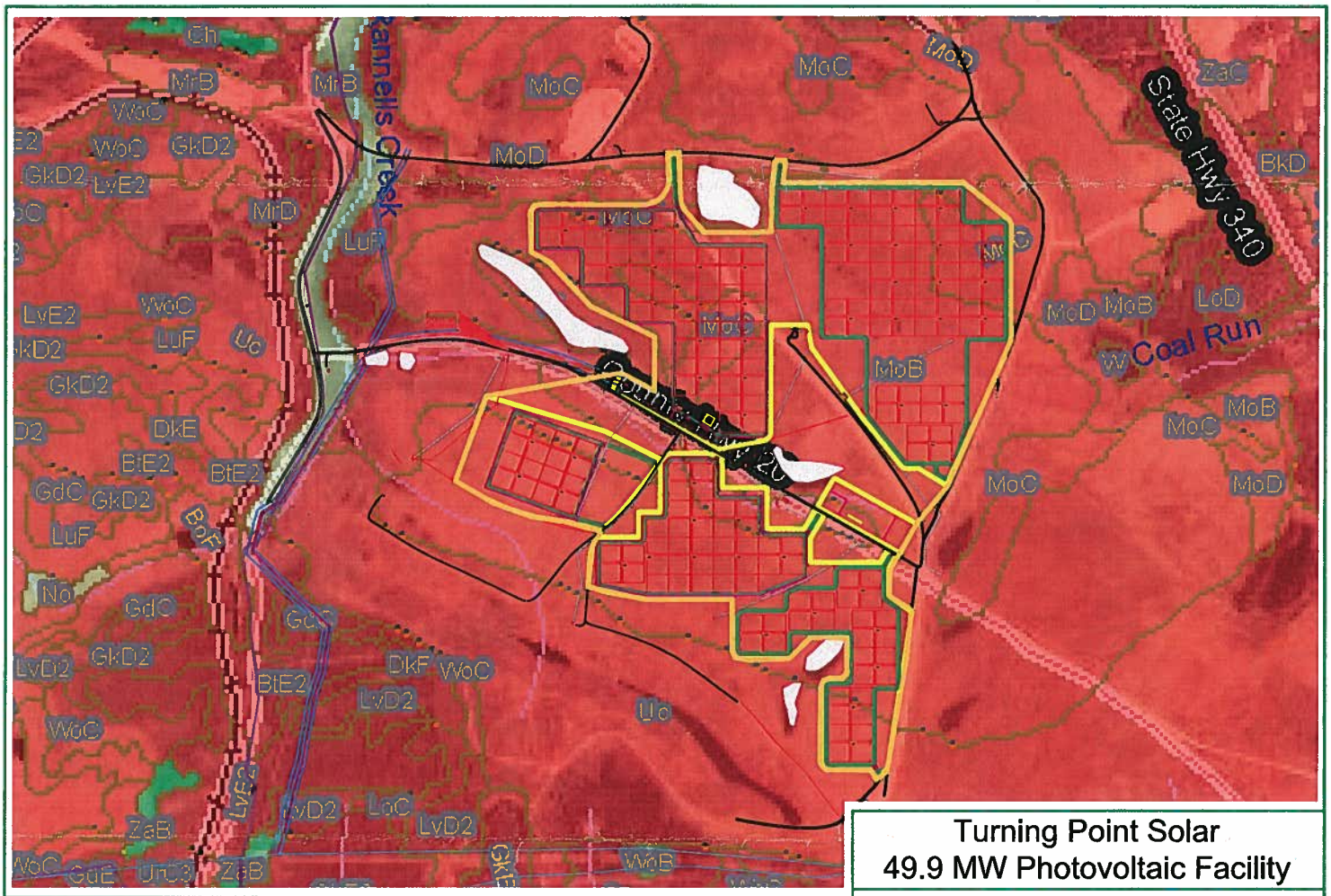
Reason For Selection:

A-3 page 2

(See Instructions on reverse side)

This form was electronically produced by National Production Services Staff

Form AD-1006 (10-83)



Turning Point Solar
49.9 MW Photovoltaic Facility

Figure X. Prime, Unique or Important Soils Map

URS

A-4

"McGee, Lauren - Washington, DC" <Lauren.McGee@wdc.usda.gov>
08/12/2011 12:50 PM

To "Jim_Burns@urscorp.com" <Jim_Burns@urscorp.com>
cc "Tracy_Engle@URSCorp.com" <Tracy_Engle@URSCorp.com>, Apolka Totth <Apolka.Totth@agileenergy.com>
bcc
Subject Turning Point Solar - Summary of Conversion w/ SHPO (8/1/2011)

History: This message has been forwarded.

Jim, Sorry that I forgot to send this earlier.

On Monday, August 1, 2011, I received a call from Nathan Young from the Ohio State Historic Preservation Office about the Turning Point Solar project. Right now, his office does not have any comments to submit under NEPA. He did, however, mention that the requirements of Section 106 of the National Historic Preservation Act are different from NEPA, and that RUS has a responsibility to submit a findings of effect letter to his office for concurrence. The findings letter should establish the area of potential effect (APE), include a brief archival records search, describe the amount/intensity of land disturbance being proposed for the project, describe the amount/intensity of previous land disturbance on the site, and provide recommendations of potential effects to important archaeological sites that could be present. (Note: important sites are those eligible for listing in the National Register of Historic Places.) This finding would need to be submitted to the SHPO on RUS letterhead.

When assessing effects, Nathan mentioned that it is important to highlight any areas on the project site that have not previously been disturbed as these areas could have important archaeological sites. It is also important to do a walk-through of the site to see if any intact Indian burial mounds are present. If there are burial mounds, RUS will need to consult in depth with the SHPO and Indian tribes when discussing avoidance/potential mitigation. The finding will also have to assess visual effects to historic properties (e.g., structures). It's my opinion that this latter component is likely to result in no effects as the site is almost completely isolated.

If you have any questions, feel free to give me a call next week. I have not received any additional scoping comments (due date is Aug 15th). We'll wait until the end of the week in case any letters were mailed towards the end of the comment period and just have not arrived yet.

Have a nice weekend –

Lauren McGee | Environmental Scientist
Rural Development | Rural Utilities Service (RUS)
U.S. Department of Agriculture
Mail Stop 1571 | Rm 2244-S
1400 Independence Ave, SW | Washington, DC 20250
Phone: 202-720-1482 | Fax: 202-690-0649
Email: mailto:lauren.mcgee@wdc.usda.gov
http://www.rurdev.usda.gov/UWP-environmental.htm

"Committed to the future of rural communities."
"Estamos dedicados al futuro de las communidades rurales."

A-5

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

COPY FOR YOUR INFORMATION

August 22, 2011

Mr. Mark Plank
USDA Rural Development/Rural Utilities Service
1400 Independence Ave. SW
Mail Stop 1571
Washington, DC 20250-1571

TAILS # 31420-2010-TA-1110

Dear Mr. Plank:

This letter is in response to your letter, dated June 15, 2011, regarding the proposed construction of the Turning Point Solar energy generation project, to be located on approximately 650 acres of reclaimed strip mined land owned by American Electric Power in Noble County, Ohio. The site historically supported 21,327 linear feet of streams prior to strip mining occurring, and may currently support a similar amount of reclaimed streams. Additionally approximately 35 acres of ponds and 5 acres of forest exist on the site. The U. S. Fish and Wildlife Service (Service) submits the following comments for consideration in inclusion into your proposed Draft Environmental Assessment.

There are no Federal wildlife refuges, wilderness areas, or designated critical habitat in proximity to the site. It appears that among the three sites considered for the facility, the proposed location has substantially less forest, which should help to minimize impacts to wildlife in general. Additional specific comments are provided below.

WATER RESOURCE COMMENTS: The Service recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat, such as forests, streams, and wetlands. Based on the documents you provided it does not appear that a stream or wetland delineation has occurred onsite yet, but that a desktop evaluation of potential water resources has been completed. We encourage you to complete a delineation to verify the current status of historical streams and to identify wetland areas. Natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Huntington District of the U.S. Army Corps of Engineers should be contacted for possible need of a Section 404 permit. We support and recommend mitigation activities that reduce the likelihood of invasive plant spread and encourage native plant colonization. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats. All disturbed areas in the project vicinity should be mulched and revegetated with native plant species.

ENDANGERED SPECIES COMMENTS: The project area lies within the range of the **American burying beetle** (*Nicrophorus americanus*) a federally listed endangered species. This insect is a generalist as far as habitat preference is concerned, meaning that it can be found in grasslands, open woodlands and brushlands. American burying beetles were recently released at The Wilds, an approximately 10,000 acre wildlife preserve within approximately 3 miles of the project area, as part of a state-wide reintroduction effort for this species. Additional releases are planned to occur at The Wilds in each of the next 4 years.

Historic use and currently existing habitat at The Wilds is similar in nature to the proposed project area. The beetle release site is approximately 3 miles from the project area, and beetles are anticipated to disperse from the release site. American burying beetles are strong fliers, moving as far as a kilometer in one night. Due to these factors the Service believes it is reasonable to assume that American burying beetles do occur within the project area.

This reintroduction effort is covered under an Endangered Species Act Section 10(a)(1)(A) permit, held by the Service's Ohio Field Office. Incidental take of beetles in this general area may be authorized under this existing permit if a landowner completes and implements a Cooperative Agreement with the Service that will result in a net benefit to the beetle. A sample Cooperative Agreement is attached for your reference. Prior to completing the Cooperative Agreement, a survey to establish baseline habitat conditions and beetle populations must be completed. This survey must be completed by a qualified and permitted surveyor (see attached list).

If the Applicant does not wish to complete a Cooperative Agreement, formal consultation under Section 7 of the Endangered Species Act will be necessary.

We strongly recommend that Turning Point Solar, American Electric Power, and USDA meet to discuss consultation on American burying beetle and the Cooperative Agreement in the near future.

The proposed project lies within the range of the **Indiana bat** (*Myotis sodalis*), a federally listed endangered species. Since first listed as endangered in 1967, their population has declined by nearly 60%. Several factors have contributed to the decline of the Indiana bat, including the loss and degradation of suitable hibernacula, human disturbance during hibernation, pesticides, and the loss and degradation of forested habitat, particularly stands of large, mature trees. Fragmentation of forest habitat may also contribute to declines. During winter, Indiana bats hibernate in caves and abandoned mines. Summer habitat requirements for the species are not well defined but the following are considered important:

(1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;
(2) live trees (such as shagbark hickory and oaks) which have exfoliating bark;
(3) stream corridors, riparian areas, and upland woodlots which provide forage sites.

Should the proposed site contain trees or associated habitats exhibiting any of the characteristics listed above, we recommend that the habitat and surrounding trees be saved wherever possible. If the trees must be cut, further coordination with this office is requested to determine if surveys are warranted. Any survey should be designed and conducted in coordination with the Endangered Species Coordinator for this office. Surveyors must have a valid Federal permit.

MIGRATORY BIRD COMMENTS: The Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) implements four treaties that provide for international protection of migratory birds. The MBTA prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the MBTA has no provision for allowing unauthorized take, the Service recognizes that some birds may be taken during otherwise lawful activities even if all reasonable measures to avoid take are implemented. The Service's Office of Law Enforcement carries out its mission to protect migratory birds not only through investigation and enforcement, but also through fostering relationships with individuals and industries that proactively seek to eliminate their impacts on migratory birds. Although it is not possible under the MBTA to absolve individuals, companies, or agencies from liability (even if they implement avian mortality avoidance or

similar conservation measures), the Office of Law Enforcement focuses on those individuals, companies, or agencies that take migratory birds with disregard for their actions and the law, especially when conservation measures have been developed but are not properly implemented.

The proposed project area is a reclaimed strip mine area that was last mined in 1991. Based on the aerial photos you provided, it appears that the project area is primarily composed of grassland, though the species composition of the area is unknown. Reclaimed strip mine areas have been shown to provide suitable nesting habitat for migratory grassland bird species in east-central Ohio, supporting breeding populations of grasshopper sparrows, (*Ammodramus savannarum*), Henslow's sparrows (*Ammodramus henslowii*), eastern meadowlarks, (*Sturnella magna*), red-winged blackbirds (*Agelaius phoeniceus*), bobolinks (*Dolichonyx oryzivorus*), savannah sparrows (*Passerculus sandwichensis*), short-eared owls (*Asio flammeus*), song sparrows (*Melospiza melodia*), and field sparrows (*Spizella pusilla*) (Ingold 2002). Grassland birds are among the fastest and most consistently declining birds in North America, with 48% percent of species designated as "of conservation concern" and 55% of species showing significant declines (North American Bird Conservation Initiative 2009). We strongly recommend that the Draft EA evaluate how the proposed action will impact grassland birds that occur in this portion of Ohio, and implement measures to minimize those impacts. We also recommend that grassland areas to be cleared only be cleared during the non-nesting season for grassland birds, generally April 1-July 31.

The project lies within the range of the **bald eagle** (*Haliaeetus leucocephalus*), a species protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) and the MBTA. The closest bald eagle nest is greater than 15 miles from the project area, however multiple wintering eagle records exist for the Muskingum/Noble County border. Further, **golden eagles** (*Aquila chrysaetos*) are known to occur in this area in the winter. In general, the project area is not likely to provide high quality habitat for either of these species, though they may occur in the vicinity of the project. Based on the project description, at this time we do not anticipate impacts on these species.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (ESA), as amended, the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (16 U.S.C. 703-712), and are consistent with the intent of the National Environmental Policy Act of 1969 and the U. S. Fish and Wildlife Service's Mitigation Policy.

We appreciate this opportunity to provide the above comments. If you have questions, or if we may be of further assistance in this matter, please contact Megan Seymour at extension 16 in this office.

Sincerely,

Mary Knapp

Mary Knapp, Ph.D.
Supervisor

cc: ODNR, DOW, SCEA Unit, Columbus, OH
Ms. Apolka Totth, Turning Point Solar LLC/Agile Energy, Inc., 1001 Bayhill Drive, Suite 100, San Bruno, CA 94066

Mr. Tracy Engle, URS Corporation, 1375 Euclid Avenue, Suite 600, Cleveland, Ohio 44115

Citations: Ingold, D.J. 2002. Use of a reclaimed stripmine by grassland nesting birds in East-Central Ohio. The Ohio Journal of Science 102(3). Available at: http://www.freepatentsonline.com/article/Ohio-Journal-Science/90216390.html

North American Bird Conservation Initiative, U.S. Committee. 2009. The State of the Birds United States of America 2009. U.S. Department of Interior: Washington, DC. 36 pp.

Attachments: USFWS Permittees for American Burying Beetle Surveys in Ohio
Sample Cooperative Agreement

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994
February 16, 2011

USFWS permittees for American burying beetle surveys in Ohio*

George Keeney Ohio State University, Entomology 318 West 12th Avenue Columbus, OH 43210 (614) 292-9634 keeney.1@osu.edu	**Stantec Consulting Services, Inc.** Bob Madej 1500 Lakeshore Drive, Suite 100 Columbus, OH 43204 (614) 486-4383 / FAX (614) 486-4387 robert.madej@stantec.com
Third Rock Consultants, LLC Rain Storm 2514 Regency Rd., Suite 104 Lexington, KY 40503 (859) 977-2000 / FAX (859) 977-2001 mforee@thirdrockconsultants.com	

*This list reflects permit data available as of February 16, 2011, and is subject to periodic revision to reflect permit changes

COOPERATIVE AGREEMENT
between the
U.S. FISH AND WILDLIFE SERVICE
and
[Insert Landowner Name]

I. PURPOSE

This Cooperative Agreement between the U.S. Fish and Wildlife Service, Ohio Ecological Services Field Office, Columbus, Ohio, hereafter referred to as the "Service" and [Insert Landowner Name], hereafter referred to as the "Cooperator", is entered into to facilitate recovery of American burying beetles in Ohio.

II. AUTHORITY

This agreement is entered into under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

III. SCOPE OF WORK

For the period as hereafter set forth, the Service and the Cooperators shall cooperate as necessary for the performance of the work as stated below:

A. The Service shall:

(1) Provide Endangered Species Act section 10(a)(1)(A) exemptions for American burying beetles occurring on properties owned and/or managed by [Insert Landowner Name].

B. The Cooperators shall:

(1) In coordination with the Service, manage Cooperators lands to support American burying beetles. [Insert Landowner Name] currently maintains [insert number] acres of land, and agrees to maintain at least [Insert percentage] of [Insert Landowner Name] property in a manner compatible with American burying beetle management.

(2) Notify the Service of any larger-scale activities (such as surface mining, extensive clear cutting, widespread intensive agriculture, or other activities causing heavy soil compaction) within the beetle management area which may adversely affect the quantity or quality of American burying beetle habitat or which may result in harm or injury to individual American burying beetles.

(4) Grant Service personnel and others authorized by the Service access to the properties described in B(1) for the purposes of American burying beetle releases, monitoring and possible re-capture.

IV. PERIOD OF PERFORMANCE

The period of performance of this cooperative agreement is from the effective date of signature by each party through December 31, [Insert Year, 5 years is recommended minimum]. See Special Provisions, Paragraph IX.A., for renewal provisions.

V. FINANCIAL ADMINISTRATION

There are no funding obligations on any party as a result of this cooperative agreement.

VI. PROJECT OFFICER

Angela Boyer
U.S. Fish and Wildlife Service
4625 Morse Road, Suite 104
Columbus, Ohio 43230

VII. MODIFICATIONS

Modifications, including the addition of new cooperating landowners, may be proposed at any time during the period of performance by any party. Modifications shall be in writing and signed by the Service Project Officer and any Cooperator affected by the modification.

VIII. TERMINATION

This agreement may be terminated by giving written notice of the termination to the other parties, not less than thirty (30) days in advance of the effective date of termination.

IX. SPECIAL PROVISIONS

A. Renewal

This agreement may be renewed beyond the initial [5-year or other] period, if agreeable to the Service and any Cooperator. Renewals shall be completed in writing, on or before [Insert date 30 days before expiration of agreement].

U.S. Fish and Wildlife Service:

_____ _____
Name Date

[Insert Landowner Name]:

_____ _____
Name Date

A-6

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

September 28, 2011

Lauren McGee
USDA, Rural Development
Mail Stop 1571, Room 2244-S
1400 Independence Avenue, SW
Washington, DC 20250

Dear Ms. McGee:

TAILS #: 31420-2011-TA-1110

This is in regards to the proposed Turning Point Solar project in Noble County, Ohio. The proposed project site is in close proximity to a recent reintroduction site on The Wilds of the federally listed endangered American burying beetle (*Nicrophorus americanus*). In an August 22, 2011 letter we informed Mr. Mark Plank, USDA Rural Development, that consultation under section 7 of the Endangered Species Act of 1973, as amended, would be required due to the potential for the Turning Point Solar project to affect the American burying beetle.

The construction of the proposed Turning Point Solar project may result in incidental take of American burying beetles. However, we have reviewed our previous intra-Service section 7 consultation regarding the release of American burying beetles on The Wilds property and determined that incidental take that may occur from the Turning Point Solar project was fully contemplated in the intra-Service consultation. Furthermore, we have determined that the Turning Point Solar project is not likely to jeopardize the continued existence of the American burying beetle.

This concludes consultation on this action for the American burying beetle, as required by section 7(a)(2) of the Endangered Species Act. Please be aware that consultation for the federally listed endangered Indiana bat (*Myotis sodalis*) is still ongoing and additional coordination for the Indiana bat is still necessary. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (ESA), as amended, and are consistent with the intent of the National Environmental Policy Act of 1969 and the U. S. Fish and Wildlife Service's Mitigation Policy.

If you have questions, or if we may be of further assistance in this matter, please contact Megan Seymour at extension 16 in this office.

Sincerely,

Mary Knapp

Mary M. Knapp, Ph.D.
Field Supervisor

cc: Apolka Totth, Agile Energy, Inc. 1001 Bayhill Drive, Suite 100, San Bruno, CA 94066
Jim Burns, URS Corp., 1375 Euclid Avenue, Suite 600, Cleveland, OH 44115

Burns, Jim

A-7

From: Angela_Boyer@fws.gov
Sent: Friday, September 30, 2011 11:28 AM
To: kimberly.k.wagner@aphis.usda.gov; llf1820@sbcglobal.net; jarp-bazzie@aci-wv.com; dvandewater@bheenvironmental.com; Art.Coleman@epa.state.oh.us; Brett.C.Latta@usace.army.mil; luanne.s.conley@lrh01.usace.army.mil; matthew.perlik@dot.state.oh.us; adrienne.smith@dot.state.oh.us; Peter.M.Clingan@lrh01.usace.army.mil; lanesm@pbworld.com; mdevilliers@entran.us; Christina.Burri@epa.state.oh.us; sblatt@fs.fed.us; jareed@fs.fed.us; sandy@hapcap.org; timothy.m.morgan@us.army.mil; benlammers@yahoo.com; jennifer.norris@dnr.state.oh.us; Scott.Stiteler@dnr.state.oh.us; david.sedlick@atcassociates.com; jmoody@williamscreek.net; vtremante@williamscreek.net; Sjennings@CTLeng.com; papesh@cvelimited.com; msharrett@bbcm.com; sross@bbcm.com; standridge.m.walker@lrh01.usace.army.mil; lmikles@ascgroup.net; rpaul@ascgroup.net; kmertz@bheenvironmental.com; Ray.Strom@puc.state.oh.us; robert.madej@stantec.com; jhargis7@insightbb.com; jessica@hapcap.org; bfalkinburg@hullinc.com; Engle, Tracy; Watters.1@osu.edu; melissa.moser@dnr.state.oh.us; mperdicas@summitmetroparks.org; jaward@wsos.org; landrews@fs.fed.us; Sistrurus@aol.com; noel.alcala@dot.state.oh.us; acampbell@ascgroup.net; Chris.Staron@dot.state.oh.us; mike.pettegrew@dot.state.oh.us; smcleod@gpdgroup.com; jamie@theoringroup.com; megan.michael@dot.state.oh.us; debbie.woischke@dnr.state.oh.us; rjacosta@wsos.org; andrew.sterling@oh.usda.gov; mary.carr@oh.usda.gov; mtawsebats@yahoo.com; Bill.Cody@dot.state.oh.us; Tim.Hill@dot.state.oh.us; Larry.Hoffman@dot.state.oh.us; John.Baird@dot.state.oh.us; Robert.Lang@dot.state.oh.us; Matt.Raymond@dot.state.oh.us; Donald.Rostofer@puc.state.oh.us; Brian.Tatman@dot.state.oh.us; jmckenney@hzwenv.com; geastridge@hzwenv.com; greg.schneider@dnr.state.oh.us; kendra.wecker@dnr.state.oh.us; carolyn.caldwell@dnr.state.oh.us; jennifer.windus@dnr.state.oh.us; stacy.xenakis@dnr.state.oh.us; Mark.Debrock@oh.usda.gov; gmanson@dot.state.oh.us; bcostelloe@edpconsultants.com; clark.nash@dot.state.oh.us; Tom.Sorge@dot.state.oh.us; rhook@ch2m.com; rgeho@cecinc.com; jennifer.pyzoha@amec.com; Thomas.Stratton@dot.state.oh.us; Muhic, Allen; jshady@pirnie.com; krisch@pirnie.com; dosborne@balke.com; kbworth@mecompanies.com; Cyoung@balke.com; jhickey@davey.com; Michael_Austin@dot.state.oh.us; jearley@ascgroup.net; jkusnier@manniksmithgroup.com; twalters@manniksmithgroup.com; jfuller@cecinc.com; bacton@cecinc.com; jdemarest@cecinc.com; flickwet@sbcglobal.net; David.W.Leput2@usace.army.mil; james.gates@dot.state.oh.us; michellee@resourceinternational.com; sara.greemore@fhwa.dot.gov; Matt.Shamis@fhwa.dot.gov; Mark.VonderEmbse@fhwa.dot.gov; fieldbiologist34 @hotmail.com; karen.fields@parsons.com; jeffrey.boyles@epa.state.oh.us; Tricia.Bishop@dot.state.oh.us; mhoggarth@otterbein.edu; Robert.Miller@CH2M.com; lscott@strategicenvironmental.net; gstuller@strategicenvironmental.net; rsmith@strategicenvironmental.net; GregLipps@aol.com; Cmeador@amercons.com; bob.monsarrat@epa.state.oh.us; steve.malone@epa.state.oh.us; ted.walton@epa.state.oh.us; theresa.gordon@epa.state.oh.us; dan.halterman@epa.state.oh.us; jennifer.seifert@epa.state.oh.us; tom.harcarik@epa.state.oh.us; joe.jellick@epa.state.oh.us; john.navarro@dnr.state.oh.us; becky.jenkins@dnr.state.oh.us; hlacey@ljbinc.com; rkelly@advan[illegible]com; gmorris@thirdrockconsultants.com; rcolvin@thirdrockconsultan

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Subject: Update to the USFWS Species Lists for Ohio

Attachments: September 2011 County List.pdf; September 2011 Species List.pdf

Dear Interested Party,

We have made the following update to our species lists for Ohio (lists are attached):

1. The following counties have been removed from the lists for the American burying beetle (ABB): Guernsey, Muskingum, and Noble. A reintroduction of the American burying beetle occurred in 2011 near the intersection of these three counties. Through recent internal discussions, we have determined that there will be no regulatory burden for incidental take of ABBs on lands surrounding the release property. Should any ABBs leave the release property and be incidentally taken as a result of an otherwise lawful activity, the beetles will be considered lost to the recovery program and no violation of section 9 will be incurred. Purposeful (Intentional) take of any ABB remains as a prohibited act under the Endangered Species Act. We have removed the three counties from our lists since consultation is not required for ABB in these counties.

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Please contact me if you have any questions about this update.
(See attached file: September 2011 County List.pdf)(See attached file: September 2011 Species List.pdf)

Sincerely,
Angela Boyer
U.S. Fish and Wildlife Service
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 ext.22
(614) 416-8994 FAX
angela_boyer@fws.gov

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

Federally Listed Species by Ohio Counties
September 30, 2011

COUNTY	SPECIES
ADAMS	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
ALLEN	Indiana bat (E), rayed bean (PE), bald eagle (SC)
ASHLAND	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
ASHTABULA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), clubshell (E), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
ATHENS	Indiana bat (E), American burying beetle (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
AUGLAIZE	Indiana bat (E), rayed bean (PE)
BELMONT	Indiana bat (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC)
BROWN	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), bald eagle (SC)
BUTLER	Indiana bat (E), rayed bean (PE), bald eagle (SC)
CARROLL	Indiana bat (E)
CHAMPAIGN	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
CLARK	Indiana bat (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C)
CLERMONT	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), bald eagle (SC)
CLINTON	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
COLUMBIANA	Indiana bat (E), sheepnose (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC), eastern hellbender (SC)
COSHOCTON	Indiana bat (E), clubshell (E), fanshell (E), purple cat's paw pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC), eastern hellbender (SC)
CRAWFORD	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
CUYAHOGA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), bald eagle (SC)

DARKE	Indiana bat (E), rayed bean (PE)
DEFIANCE	Indiana bat (E), clubshell (E), northern riffleshell (E), white cat's paw pearly mussel (E), rayed bean (PE), copperbelly water snake (T), bald eagle (SC)
DELAWARE	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), bald eagle (SC)
ERIE	Indiana bat (E), Kirtland's warbler (E), piping plover (E/CH), Lakeside daisy (T), eastern massasauga (C), bald eagle (SC), Lake Erie watersnake (SC)
FAIRFIELD	Indiana bat (E), clubshell (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
FAYETTE	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
FRANKLIN	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC)
FULTON	Indiana bat (E), rayed bean (PE)
GALLIA	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
GEAUGA	Indiana bat (E), bald eagle (SC)
GREENE	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C)
GUERNSEY	Indiana bat (E), bald eagle (SC)
HAMILTON	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), bald eagle (SC)
HANCOCK	Indiana bat (E), clubshell (E), rayed bean (PE), bald eagle (SC)
HARDIN	Indiana bat (E), clubshell (E), rayed bean (PE), copperbelly water snake (T), eastern massasauga (C), bald eagle (SC)
HARRISON	Indiana bat (E), bald eagle (SC)
HENRY	Indiana bat (E), rayed bean (PE), bald eagle (SC)
HIGHLAND	Indiana bat (E), rayed bean (PE), bald eagle (SC), timber rattlesnake (SC)
HOCKING	Indiana bat (E), American burying beetle (E), running buffalo clover (E), northern monkshood (T), small whorled pogonia (T), timber rattlesnake (SC), bald eagle (SC)
HOLMES	Indiana bat (E), eastern prairie fringed orchid (T), bald eagle (SC), eastern hellbender (SC)
HURON	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
JACKSON	Indiana bat (E), timber rattlesnake (SC)
JEFFERSON	Indiana bat (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC)
KNOX	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
LAKE	Indiana bat (E), Kirtland's warbler (E), piping plover (E/CH), snuffbox (PE), bald eagle (SC)

LAWRENCE	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
LICKING	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
LOGAN	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
LORAIN	Indiana bat (E), Kirtland's warbler (E), piping plover (E), bald eagle (SC)
LUCAS	Indiana bat (E), Karner blue butterfly (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
MADISON	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C)
MAHONING	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
MARION	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
MEDINA	Indiana bat (E), bald eagle (SC)
MEIGS	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE)
MERCER	Indiana bat (E), rayed bean (PE), bald eagle (SC)
MIAMI	Indiana bat (E), rayed bean (PE), snuffbox (PE)
MONROE	Indiana bat (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC)
MONTGOMERY	Indiana bat (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
MORGAN	Indiana bat (E), American burying beetle (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), bald eagle (SC)
MORROW	Indiana bat (E), rayed bean (PE), bald eagle (SC)
MUSKINGUM	Indiana bat (E), fanshell (E), sheepnose (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC), eastern hellbender (SC)
NOBLE	Indiana bat (E), bald eagle (SC)
OTTAWA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), Lakeside daisy (T), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC), Lake Erie watersnake (SC)
PAULDING	Indiana bat (E), rayed bean (PE), bald eagle (SC)
PERRY	Indiana bat (E), American burying beetle (E)
PICKAWAY	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC)
PIKE	Indiana bat (E), clubshell (E), northern riffleshell (E), rayed bean (PE), bald eagle (SC), timber rattlesnake (SC)
PORTAGE	Indiana bat (E), Mitchell's satyr (E), northern monkshood (T), eastern massasauga (C), bald eagle (SC)

PREBLE	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
PUTNAM	Indiana bat (E), rayed bean (PE), bald eagle (SC)
RICHLAND	Indiana bat (E), eastern massasauga (C), bald eagle (SC), eastern hellbender (SC)
ROSS	Indiana bat (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC), timber rattlesnake (SC)
SANDUSKY	Indiana bat (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
SCIOTO	Indiana bat (E), running buffalo clover (E), clubshell (E), fanshell (E), northern riffleshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), small whorled pogonia (T), Virginia spiraea (T), bald eagle (SC), eastern hellbender (SC) timber rattlesnake (SC)
SENECA	Indiana bat (E), rayed bean (PE), bald eagle (SC)
SHELBY	Indiana bat (E), rayed bean (PE)
STARK	Indiana bat (E), bald eagle (SC)
SUMMIT	Indiana bat (E), northern monkshood (T), bald eagle (SC)
TRUMBULL	Indiana bat (E), clubshell (E), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
TUSCARAWAS	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
UNION	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC)
VAN WERT	Indiana bat (E), rayed bean (PE)
VINTON	Indiana bat (E), American burying beetle (E), bald eagle (SC), eastern hellbender (SC), timber rattlesnake (SC)
WARREN	Indiana bat (E), running buffalo clover (E), rayed bean (PE), eastern massasauga (C)
WASHINGTON	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC), timber rattlesnake (SC)
WAYNE	Indiana bat (E), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
WILLIAMS	Indiana bat (E), clubshell (E), northern riffleshell (E), white cat's paw pearly mussel (E), rayed bean (PE), copperbelly water snake (T), rabbitsfoot (C), bald eagle (SC)
WOOD	Indiana bat (E), rayed bean (PE), bald eagle (SC)
WYANDOT	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)

IMPORTANT NOTE: This list reflects data available as of September 30, 2011, and will change as new data become available. For this reason, searches for listed species should not necessarily be limited to the counties noted above. Any decisions in that regard should be made only after calling the USFWS (614/416-8993) for guidance.

E = Endangered C = Candidate
PE = Proposed Endangered SC = Species of Concern
T = Threatened CH = Critical Habitat

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

Federally Endangered, Threatened, Candidate Species, and Species of Concern in Ohio
September 30, 2011

SPECIES	Counties of Current, Recent, and Possible Distribution
Indiana Bat (E) *Myotis sodalis*	All counties in Ohio
Kirtland's Warbler (E) *Setophaga kirtlandii*	Ashtabula, Cuyahoga, Erie, Lake, Lorain, Lucas, Ottawa, Sandusky
Piping Plover (E) *Charadrius melodus*	Ashtabula, Cuyahoga, Erie (CH), Lake (CH), Lorain, Lucas, Ottawa, Sandusky
Scioto Madtom (E) *Noturus trautmani*	Franklin, Madison, Pickaway, Union
Clubshell (E) *Pleurobema clava*	Ashtabula, Coshocton, Defiance, Delaware, Fairfield, Franklin, Greene, Hancock, Hardin, Madison, Marion, Pickaway, Pike, Ross, Scioto, Trumbull, Union, Williams
Fanshell (E) *Cyprogenia stegaria*	Adams, Athens, Brown, Clermont, Coshocton, Gallia, Hamilton, Lawrence, Meigs, Morgan, Muskingum, Scioto, Washington
Northern Riffleshell (E) *Epioblasma torulosa rangiana*	Defiance, Franklin, Madison, Pickaway, Pike, Ross, Scioto, Union, Williams
Pink Mucket Pearly Mussel (E) *Lampsilis abrupta*	Adams, Athens, Brown, Clermont, Gallia, Hamilton, Lawrence, Meigs, Morgan, Scioto, Washington
Purple Cat's Paw Pearly Mussel (E) *Epioblasma obliquata obliquata*	Coshocton
White Cat's Paw Pearly Mussel (E) *Epioblasma obliquata perobliqua*	Defiance, Williams
Rayed Bean (PE) *Villosa fabalis*	Adams, Allen, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Darke, Defiance, Delaware, Fairfield, Fayette, Franklin, Fulton, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Logan, Lucas, Madison, Marion, Mercer, Miami, Montgomery, Morrow, Ottawa, Paulding, Pickaway, Pike, Preble, Putnum, Ross, Sandusky, Scioto, Seneca, Shelby, Union, Van Wert, Warren, Williams, Wood, Wyandot

Sheepnose (PE) *Plethobasus cyphyus*	Adams, Athens, Belmont, Brown, Clermont, Columbiana, Coshocton, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Scioto, Washington
Snuffbox (PE) *Epioblasma triquetra*	Adams, Ashtabula, Athens, Belmont, Brown, Clermont, Columbiana, Coshocton, Delaware, Franklin, Gallia, Greene, Hamilton, Jefferson, Lake, Lawrence, Madison, Marion, Meigs, Miami, Monroe, Montgomery, Morgan, Muskingum, Pickaway, Ross, Scioto, Trumbull, Union, Washington
Rabbitsfoot (C) *Quadrula c. cylindrica*	Coshocton, Franklin, Madison, Muskingum, Pickaway, Union, Williams
American Burying Beetle (E) *Nicrophorus americanus*	Athens, Hocking, Morgan, Perry, Vinton
Karner Blue Butterfly (E) *Lycaeides melissa samuelis*	Lucas
Mitchell's Satyr (E) *Neonympha m. mitchellii*	Portage
Running Buffalo Clover (E) *Trifolium stoloniferum*	Adams, Brown, Clermont, Hamilton, Hocking, Lawrence, Scioto, Warren
Eastern Prairie Fringed Orchid (T) *Platanthera leucophaea*	Clark, Holmes, Lucas, Ottawa, Sandusky, Wayne
Lakeside Daisy (T) *Hymenoxys herbacea*	Erie, Ottawa
Northern Monkshood (T) *Aconitum noveboracense*	Hocking, Portage, Summit
Small Whorled Pogonia (T) *Isotria medeoloides*	Hocking, Scioto
Virginia Spiraea (T) *Spiraea virginiana*	Scioto
Copperbelly Water Snake (T) *Nerodia erythrogaster neglecta*	Defiance, Hardin, Williams
Eastern Massasauga (C) *Sistrurus catenatus*	Ashtabula, Champaign, Clark, Clinton, Columbiana, Crawford, Erie, Fairfield, Fayette, Greene, Hardin, Huron, Licking, Logan, Lucas, Mahoning, Marion, Montgomery, Ottawa, Portage, Preble, Richland, Sandusky, Trumbull, Warren, Wayne, Wyandot
Bald Eagle (SC) *Haliaeetus leucocephalus*	The following counties have nesting records: Allen, Ashland, Ashtabula, Belmont, Brown, Butler, Clermont, Columbiana, Coshocton, Crawford, Cuyahoga, Defiance, Delaware, Erie, Fairfield, Franklin, Geauga, Guernsey, Hamilton, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jefferson, Knox, Lake, Licking, Logan, Lorain, Lucas, Mahoning, Marion, Medina, Mercer,

	Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Pickaway, Pike, Portage, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Stark, Summit, Trumbull, Tuscarawas, Union, Vinton, Washington, Wayne, Williams, Wood, Wyandot
Eastern Hellbender (SC) *Cryptobranchus a. alleganiensis*	Ashland, Belmont, Columbiana, Coshocton, Holmes, Jefferson, Knox, Monroe, Muskingum, Richland, Ross, Scioto, Tuscarawas, Vinton, Washington
Lake Erie Watersnake (SC) *Nerodia sipedon insularum*	Erie, Ottawa
Timber Rattlesnake (SC) *Crotalus horridus horridus*	Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Pike, Ross, Scioto, Vinton, Washington

IMPORTANT NOTE: This list reflects data available as of September 30, 2011, and will change as new data become available. For this reason, searches for listed species should not necessarily be limited to the counties noted above. Any decisions in that regard should be made only after calling the USFWS (614/416-8993) for guidance.

E = Endangered C = Candidate
PE = Proposed Endangered SC = Species of Concern
T = Threatened CH = Critical Habitat

Ohio Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

A-8

October 6, 2011

James F. Burns
URS Corporation
1375 Euclid Avenue, Suite 600
Cleveland, Ohio 44115

Re: Noble/ Brookfield/ Cumberland
Turning Point Solar energy generation project
Pre-Application Site Visit Follow-Up Letter

Dear Mr. Burns:

Thank you for inviting me to the pre-application site visit for the Turning Point Solar project, a joint venture between Agile Energy Inc. and New Harvest Ventures to develop a 49.9 megawatt Turning Point Solar energy generation project on 650 acres of reclaimed coal strip mine land owned by Columbus Southern Power Company and Ohio Power Company (AEP) at a site located in Noble county, Ohio, about eight miles northwest of Caldwell, Ohio. (coordinates: 39 48' 45.37N. 81 40' 19.36W).

The project would install approximately 239,400 high-efficiency monocrystalline photovoltaic panels and would utilize fixed solar racking equipment. Ohio EPA received a Pre-Application Request Form for this project on August 5, 2011.

The pre-application site visit was held at the Turning Point project site on September 27, 2011. Meeting attendees, who also included Mr. Auggie Ruggiero, walked the site and discussed the following:

1. Proposed project schedule – The project is currently anticipated to be built in three phases: Phase 1 with 20 MW is scheduled to come on-line in 2012; Phase 2 with 15 MW is scheduled to come on-line in 2014; and Phase 3, with 14.9 MW, is scheduled to come on-line in 2015.

2. Delineation verification – U.S. Army Corps of Engineers (USACE) has not issued a jurisdictional determination letter (JD) for the project yet; however, the applicant anticipates that they will receive it soon.

3. Proposed project impacts and permitting - It was stated that proposed project impacts will include <3 acres of isolated Category 1 wetlands and ¼ acre jurisdictional waters and that an Isolated Wetland Permit (IWP) Level 2 application review would be submitted to Ohio EPA and a Nationwide Permit (NWP) would be issued to the USACE. Although the applicant wasn't sure which NWP would apply, they mentioned NWP #39 Commercial and Institutional Developments. However, the pre-application documentation also indicates that there will be at least 797 linear feet of intermittent stream impacts and 479 linear feet of impacts to ephemeral streams. And it doesn't appear that the pre-application tables include totals for impacts associated with the transmission line corridor. Without the JD to determine how the streams are regulated, Ohio EPA cannot advise the applicant which permit would apply.

However, it appears that these are jurisdictional streams. And since the NWP #39 limits impacts to 500 linear feet of streams, of which, no more than 200 linear feet can be impacts to intermittent or perennial, it appears that a Section 401 water quality certification (WQC) would be required, in addition to an isolated wetland level 2 permit application.

When submitting the application, be sure to provide a narrative explanation of all of the impacts, as well as clear tables and drawings illustrating where and what all of the impacts will be. Please also be sure to read below regarding the alternatives analysis as it relates to your presentation of the impacts.

4. Mitigation – Please be sure to address mitigation in your application. The purpose of compensatory mitigation is to replace those aquatic ecosystem functions that would be lost or impaired as a result of the project. Compensatory mitigation should be "in-kind" (meaning wetland for wetland, stream for stream) and occur as close to the site of the adverse impact as practicable. The goals of mitigation must be specific, measurable and attainable within a specified timeframe. Typically, the objective is to provide a minimum of functional replacement, i.e. no net loss of functions, with an adequate margin of safety to reflect anticipated success. When submitting the IWP and, if necessary, WQC application, be prepared to provide rationale for mitigation site selection and goals.

5. ORAM forms - ORAM forms were submitted as part of the pre-application materials; however, they were only the two-page forms. When submitting the complete application, you are required to submit the 10-page forms (since most of the wetlands have a similar hydrogeomorphic class and quality, submit only one copy of the 10-page form for similar wetlands, but also submit an electronic copy of the forms for all of the wetlands).

6. HHEI forms – Primary Headwater Habitat Evaluation Index forms were not submitted with the pre-application materials. Please be sure to include these (one hard copy of each and an electronic copy of all).

An item not discussed at the pre-application meeting, but one that will need addressed in the application is the alternatives analysis. In the pre-application materials, a couple different types of alternatives analysis were presented.

1. To satisfy AEP Ohio's in-state requirements, they can either build solar generation in-state; they can contract for some or all of the output of an in-state solar facility built by another entity; or they can purchase available Ohio solar renewable energy certificates. By selecting Site #2, AEP was able to meet six of the nine siting criteria, which includes proximity to transmission lines, highway access, and land use, among others.

2. Site selection alternatives consisted of the evaluation of three sites and analysis of factors to reduce costs, eliminate delays, minimize potential impacts and project opposition, and streamline the regulatory process. By selecting alternative 2 and contracting for some of the output of an in-state solar facility built by another entity, AEP Ohio will be able to achieve their designated solar energy benchmarks required under Ohio law.

3. Although a portion of the site selection criteria looked at avoidance and minimization, it was performed on a site-by-site basis. For the alternatives analysis associated with an IWP level 2 review, the applicant must provide an analysis of practicable on-site alternatives to the proposed filling of the isolated wetlands that would have a less adverse impact on the isolated wetland ecosystem. If it is determined that a WQC is necessary for this project, to address requirements of the antidegradation rule (OAC rule 3745-1-05), you must submit three alternatives that were considered during the project planning process that would

avoid impacts to the aquatic resource(s). The three alternatives shall be referred to as: Preferred Alternative, Minimal Degradation Alternative and Non-Degradation Alternative. Your alternatives must explain the rationale, methods and techniques used to avoid and minimize impacts to the aquatic resource(s) on-site. If it is not possible to avoid or minimize impacts to water resources, provide the reasoning and evidence for that conclusion.

Submission of the following three project alternatives is required:

Preferred Alternative – this is the project location and layout that would maximize the applicant's project objectives, but would result in the greatest amount of impacts to the quantity and quality of pre-construction water resources.

Minimal Degradation Alternative - this is the project location and layout that would meet the applicant's project objectives while simultaneously resulting in the least impacts to the quantity and quality of pre-construction water resources.

Non-Degradation Alternative – this is the project location and layout that would COMPLETELY AVOID impacts to existing water resources and therefore result in NO IMPACTS. Unless the project is water-dependent, the non-degradation alternative cannot be "no build." For ATF projects, the non-degradation alternative must be the restoration of the impacted water to pre-impact conditions.

If it is determined that a WQC is necessary for this project, please provide the following information:

1. A complete 401 Water Quality Certification application form [PDF 49K]. Alternatively, you may use the *NEW* Excel workbook 401 WQC/IWP application form located on the eBusiness Center. (Instructions are provided below) ;
2. A copy of the United States Army Corps of Engineers' jurisdictional determination letter. If no jurisdictional determination is to be issued by the Corps, the public notice or notification that the project is authorized under a general permit will fulfill this requirement;
3. If the project impacts a wetland, a wetland characterization analysis consistent with the Ohio Rapid Assessment Method (the 10-page form);
4. If the project impacts a stream for which a specific aquatic life use designation has not been made, a use attainability analysis;
5. A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;
6. Applicable permit fees (see Fees page);
7. Site photographs;
8. Adequate documentation confirming that the applicant has requested comments from the Ohio Department of Natural Resources and the United States Fish & Wildlife Service regarding threatened and endangered species, including the presence or absence of critical habitat;
9. Descriptions, schematics, and appropriate economic information of the applicant's preferred alternative, non-degradation alternatives and minimal degradation alternatives for design and operation of the activity;
10. The applicant's investigation report of the waters of the United States in support of the 404 permit application. If no investigation report is required by the Corps, the public notice or notification that the project is to be authorized under a general permit will fulfill this requirement; and
11. A copy of the United States Army Corps of Engineers' public notice regarding the 404 permit application. If no public notice is to be issued by the Corps, notification that the project is authorized under a general permit will fulfill this requirement.

You may wish to apply using the *NEW* 401 WQC/IWP application form. The form is currently only accessed through the agency's eBusiness Center. For new users, you must first create an account. To do so, go to www.ebiz.epa.state.ohio.gov. On the login screen, select "Create new account." Enter the information as requested and select "submit." You will be redirected to the Welcome and Available Services page. Login using the username and password you created. Select "request" next to the DSW 401 Certification/Wetlands Permit service, and on the following screen select "Yes, activate the DSW 401 Certification/Wetlands Permit Service" and then "Continue". Now you are able to select the service and download the instructions and the application. Be sure to "enable macros" each time you use the excel workbook and save the file as a "macro-enabled template."

For more information about isolated wetlands, please refer to our website: http://www.epa.ohio.gov/dsw/401/IWP.aspx.

You may find a copy of Ohio EPA's rules and laws online: http://www.epa.ohio.gov/dsw/rules/index.aspx. Information regarding Ohio's Section 401 Program is also available online: http://www.epa.ohio.gov/dsw/401/index.aspx.

If you have any questions or concerns regarding these comments or accessing the eBusiness Center or the new application, please contact me at (614) 644-2148, or via e-mail at Rose.McLean@epa.state.oh.us.

Sincerely,

Rose McLean
401 Coordinator
Division of Surface Water

ec: Susan Fields, Department of the Army, Huntington District, Corps of Engineers
Auggie Ruggiero, URS Corporation
Tom Harcarik, Supervisor, 401 Section, DSW, Ohio EPA

URS

A-9

Memo

To: Angela Boyer, USFWS

From: Auggie Ruggiero, URS

CC: Apolka Totth, Agile Energy, Inc., Tracy Engle, URS, Jim Burns, URS

Date: 10/25/2011

Re: Turning Point Solar Project, Indiana Bat Habitat Assessment

---

On September 13, 2011 URS Corporation inspected an approximately 771 acre Project Site and a proposed electrical transmission line corridor (collectively known as the Project Area) associated with the proposed Turning Point Solar (TPS) Facility (Figure 1) for potential summer roosting habitat of the federally endangered Indiana bat (*Myotis sodalis*). The 771-acre Project Site is located east of State Route 83 south of the Town of Cumberland, Noble County, Ohio and is traversed by Chapel Drive. The Project Site area has been used as pastureland within the last year and was used for strip mining activities within the last 20 years.

The 50-foot wide transmission corridor for the project's transmission feeder line will run for 1.87 miles to the Ohio Power Company's South Cumberland Substation, and is oriented mostly north-south, parallel to State Route 83 and Rannells Creek (Figure 1). The proposed transmission feeder line would be supported by 60-foot tall wood monopole structures that would be spaced approximately 250-300 feet apart. Approximately 0.58 miles of this proposed corridor would be placed through a non-forested area immediately adjacent and parallel to Chapel Drive (County Route 20). Approximately 1.29 miles of the proposed corridor would be located immediately adjacent and parallel to an existing 50-foot wide 69 kV electric transmission line right of way that would not involve the rebuilding and replacement of the existing electric transmission line. Portions of this 1.29-mile route are forested. Cover types along the existing corridor consist of forested wetland, forested upland, and scrub/shrub habitats located along a riparian corridor.

The following two characteristics were considered when determining if summer roosting habitat is located within the Project Site:

(1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;

(2) live trees (such as shagbark hickory and oaks) which have exfoliating bark.

The site was also investigated for potential foraging sites.

771 Acre Project Site

Trees are scattered throughout the 771-acre Project Site and are located mostly within the portion of the Project Site north of Chapel Road. According to the 2007 Indiana Bat Draft Recovery Plan, roost trees are typically within canopy gaps in a forest, in a fenceline, or along a wooded edge. Habitats in which maternity roosts occur include riparian zones, bottomland and floodplain habitats, wooded wetlands, and upland communities. Since the trees located within the 771-acre Project Site do not constitute a forest, fenceline, or wooded edge and are not located in a riparian zone, bottomland or floodplain habitat, or wooded wetland, the site does not provide cover suitable for roosting sites. The Draft Recovery Plan also states that Indiana bats typically forage in semi-open to closed (open understory) forested habitats, forest edges, and riparian areas. Potential foraging opportunities are limited within this portion of the project area since no riparian zones or forested habitats are located within this area.

Proposed Transmission Corridor

As a result of the potential roost tree survey, a group of six standing dead trees located along the proposed transmission corridor were found that displayed solar exposure and exfoliating bark (Photos 1-6 in the attached photolog). The diameters at breast height for these trees ranged from approximately eight to twelve inches and were determined to possess potential Indiana bat roost tree characteristics. The approximate locations of these trees are illustrated on Figure 1 and Figure 2. Because Rannells Creek, a perennial stream, runs parallel with the proposed transmission corridor and the eastern portion of the proposed corridor is forested, this portion may be suitable as foraging habitat for the Indiana bat.

Conclusion

Potential roosting and foraging habitat for the Indiana bat is located along the transmission corridor. Some tree-cutting will be required to clear this corridor. This activity is not likely to adversely affect the Indiana bat as long as tree cutting occurs between September 30 and April 1 during which time the bats will not be using the trees as summer roosting habitat.

URS	PHOTOGRAPHIC LOG	
Client Name: Agile Energy	**Site Location:**	**Project No:** 13814246

Photo No. 1	**Date:** 13 September, 2011

Description:

Standing Dead 1, a potential Indiana bat roosting tree, facing east.

Photo No. 2	**Date:** 13 September, 2011

Description:

Canopy of Standing Dead 1, showing exfoliating bark and solar exposure, facing east.

URS	PHOTOGRAPHIC LOG	
Client Name: Agile Energy	**Site Location:**	**Project No:** 13814246

Photo No. 3	**Date:** 13 September, 2011

Description:

Standing Dead 2, a potential Indiana bat roosting tree, facing southeast.

Photo No. 4	**Date:** 13 September, 2011

Description:

Standing Dead 3 and 4, two potential Indiana bat roosting trees, facing northeast.

PHOTOGRAPHIC LOG

Client Name:	Site Location:	Project No:
Agile Energy		13814246

Photo No.	Date:
5	13 September, 2011

Description:

Standing Dead 5 and 6, two potential Indiana bat roosting trees, facing southeast.

Photo No.	Date:
6	13 September, 2011

Description:

Standing Dead 5 and 6, two potential Indiana bat roosting trees, facing southeast.

771-Acre Portion of Project Area

0.58-Mile Portion of Proposed Transmission Line Corridor

Location of Potential Roost Trees

Location of Figure 2 Detail

1.29-Mile Portion of Proposed Transmission Line Corridor

Agile Energy, Inc.
Noble County AEP Study Area
Noble County, Ohio

FIGURE 1

Indiana Bat Habitat Assessment Map

URS

LEGEND

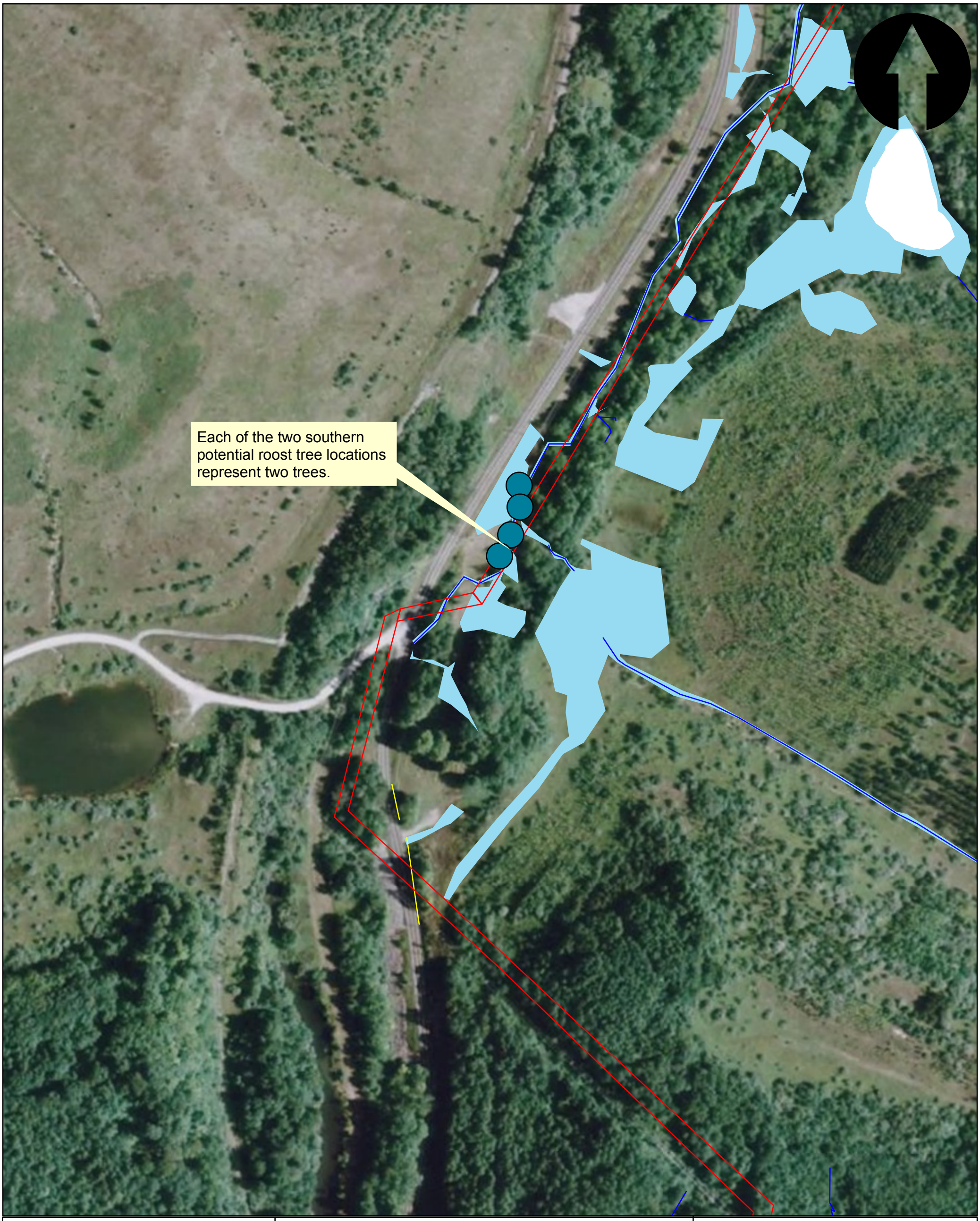
Wetland

Open Water

Potential Non-Jurisdictional Waterway

Jurisdictional Stream

Feet
0 500 1,000 2,000 3,000 4,000



Agile Energy, Inc.
Noble County AEP Study Area
Noble County, Ohio

FIGURE 2

Indiana Bat Habitat Assessment Map Detail

URS

LEGEND

- Wetland
- Open Water
- Potential Non-Jurisdictional Waterway
- Jurisdictional Stream
- Potential Roost Tree Location

Feet
0 100 200 400 600 800

A-9 page 7

USDA Rural Development

United States Department of Agriculture
Rural Development

A-10

November 1, 2011

Mr. Nathan Young
Project Reviews Manager
Ohio Historic Preservation Office
800 E. 17th Ave.
Columbus, OH 43211-2474

RE: Determination of No Effects to Historic Properties
Turning Point Solar Generating Facility Project
Brookfield Township, Noble County, Ohio

Dear Mr. Young:

The Rural Utilities Service (RUS) may provide financial assistance to Turning Point Solar LLC to construct the proposed Turning Point Solar Generating Facility (Project) in Brookfield Township, Noble County, Ohio. This potential RUS action is an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

Turning Point Solar LLC proposes to construct the Project on 400 acres of a 770-acre site. Project components include the installation of approximately 239,400 photovoltaic panel arrays ground-mounted on fixed solar racking equipment. The project also includes construction of a 1.87-mile long 69 kV transmission line and supporting ancillary facilities. Line construction would involve the installation of monopole structures of 60 feet in height. Span width between structures would be approximately 250-300 feet. The line would also require clearing a right-of-way of approximately 50 feet in width. Access to construct and maintain the line would be from nearby roads and within the line's proposed right-of-way. Approximately 0.58 miles of the line would be sited through an area adjacent to Chapel Drive (County Route 20). The remaining 1.29 miles of line would be located adjacent to an existing 69 kV transmission line. The Area of Potential Effect (APE) for archaeology is determined to be the entire 770 acre site and the proposed transmission line corridor. The visual APE for effects to above-ground historic properties is a 1-mile buffer surrounding the Project site.

A Cultural Resource Review Memorandum (see enclosure) was completed for the proposed Project by URS. The memorandum includes an archival records review and windshield/pedestrian inspection, which focused on the identification of non-disturbed landforms indicative of Native American burial mounds, cemeteries, burials, and other important archaeological properties that could be within the archeological APE. Results from the

windshield/pedestrian inspection indicate that the entire archaeological APE has been severely disturbed by past land uses on the 770-acre site (i.e., strip mine land). Although not explicit in the report, the proposed transmission line corridor also appears to be sited through or adjacent to previously disturbed areas, therefore decreasing the likelihood of intact historic properties being present within the corridor. The memorandum also documents two known sites (NO0061 and NO0062) within the visual APE. While these sites were not evaluated for National Register eligibility, the Project does not appear to be visible to these sites because of vegetative screening. No other historic above-ground historic properties were noted during the windshield/pedestrian inspection. Accordingly, RUS has determined that a finding of no effects to historic properties is appropriate for the Project.

Please review this finding of effects and notify RUS within thirty (30) days of receipt of this letter of your concurrence or objection. If the SHPO fails to respond within this time frame, RUS will conclude Section 106 review for these projects in accordance with 36 CFR § 800.3(c)(4) on the basis of the finding of no historic properties affected. Should you have any questions, please contact RUS's environmental review coordinator for this project, Ms. Lauren McGee, at lauren.mcgee@wdc.usda.gov or (202) 720-1482.

Sincerely,

Mark S. Plank

MARK S. PLANK
Director
Engineering and Environmental Staff
USDA, Rural Utilities Service

cc:
Apolka Totth, Turning Point Solar LLC, pat.bormann@wdc.usda.gov
Jim Burns, URS, phil.kinser@swiarec.coop

Burns, Jim

A-11

From: Megan_Seymour@fws.gov
Sent: Tuesday, November 22, 2011 10:21 AM
To: Burns, Jim
Cc: Apolka Totth (Apolka.Totth@agileenergy.com); perry@fontanaenergy.com; Engle, Tracy; Ruggiero, Auggie; Renner, Philip; McGee, Lauren - Washington, DC (Lauren.McGee@wdc.usda.gov)
Subject: Fw: Turning Point Solar Indiana Bat Habitat Assessment
Attachments: TPS Indiana Bat Habitat Assessment.pdf

Jim,
Thank you for providing this for our review. I have a few questions before providing a formal response:
1. Six potential Indiana bat maternity roost trees were identified near the proposed transmission line corridor. Can these trees be avoided during construction?
2. Are there other potential roost trees near or adjacent to the transmission line corridor? Your habitat assessment did not characterize the landscape surrounding the corridor, but it appears forested.
3. What is the timeframe for construction of the transmission line?

Thanks much,
Megan

Megan Seymour
Wildlife Biologist
U.S. Fish & Wildlife Service
4625 Morse Rd.
Suite 104
Columbus, OH 43230
(614) 416-8993 ext. 16
(614) 416-8994 fax

"Burns, Jim"
<jim.burns@urs.com>

10/25/2011 01:15 PM

To"Angela_Boyer@fws.gov" <Angela_Boyer@fws.gov>

cc"Apolka Totth (Apolka.Totth@agileenergy.com)" <Apolka.Totth@agileenergy.com>, "perry@fontanaenergy.com" <perry@fontanaenergy.com>, "Engle, Tracy" <tracy.engle@urs.com>, "Ruggiero, Auggie" <auggie.ruggiero@urs.com>, "Renner, Philip" <philip.renner@urs.com>, "McGee, Lauren - Washington, DC (Lauren.McGee@wdc.usda.gov)" <Lauren.McGee@wdc.usda.gov>

SubjectTurning Point Solar Indiana Bat Habitat Assessment

Angela:

Please see the attached subject document.

A-11 page 1

Please do not hesitate to call if you have questions.

Thanks

Jim

James F. Burns, PWS, URS Certified Project Manager
Senior Environmental Scientist
URS Corporation
Architects, Engineers, and Planners
1375 Euclid Avenue, Suite 600
Cleveland OH 44115
Tel: 216-622-2396 (direct)
Tel: 216-622-2400 (general)
Fax: 216-622-2428
Cell: 216-272-5330
Email: Jim.Burns@urs.com **(Please note new email address)**

(See attached file: TPS Indiana Bat Habitat Assessment.pdf)

A-11 page 2

URS

A-12

Memo

To: Angela Boyer and Megan Seymour, USFWS

From: Auggie Ruggiero, URS

CC: Apolka Totth, Agile Energy, Inc., Tracy Engle, URS, Jim Burns, URS

Date: 12/7/2011

Re: Turning Point Solar Project, Indiana Bat Habitat Assessment Addendum

---

This memorandum is in response to an email sent from your office on November 22, 2011 regarding the Indiana bat habitat assessment conducted for the proposed Turning Point Solar Project. A memo documenting the habitat assessment was provided to your office on October 25, 2011. Each of the three questions (in red) asked in the November 22 email is addressed separately below.

1. Six potential Indiana bat maternity roost trees were identified near the proposed transmission line corridor. Can these trees be avoided during construction?

The exact placement of structures within the transmission line corridor will not be determined until more detailed engineering prior to construction. During this engineering, the Project will make all reasonable efforts to avoid having to cut any of the six identified trees. If detailed engineering determines that one or more of these trees must be removed the Project will notify the USFWS and cutting will not be done if the trees are being used for roosting.

2. Are there other potential roost trees near or adjacent to the transmission line corridor? Your habitat assessment did not characterize the landscape surrounding the corridor, but it appears forested.

Although a habitat assessment was not conducted outside of the project limits, the majority of the area located south of the 771 acre project site and east of the northern portion of the transmission line is dominated by herbaceous or scrub/shrub vegetation with scattered trees. The area located east of the southern portion of the transmission line corridor is forested. Aerial photographs showing these areas are attached.

East of the Northern Portion of the Transmission Line (See Exhibits IBHM-1 and IBHM-2)

The potential roost trees identified during the September 13, 2011 survey are located within this area (i.e., between the second and third “dot” down from the bottom on the Proposed Transmission Line on Exhibit IBHM-2). As indicated in the habitat assessment memorandum

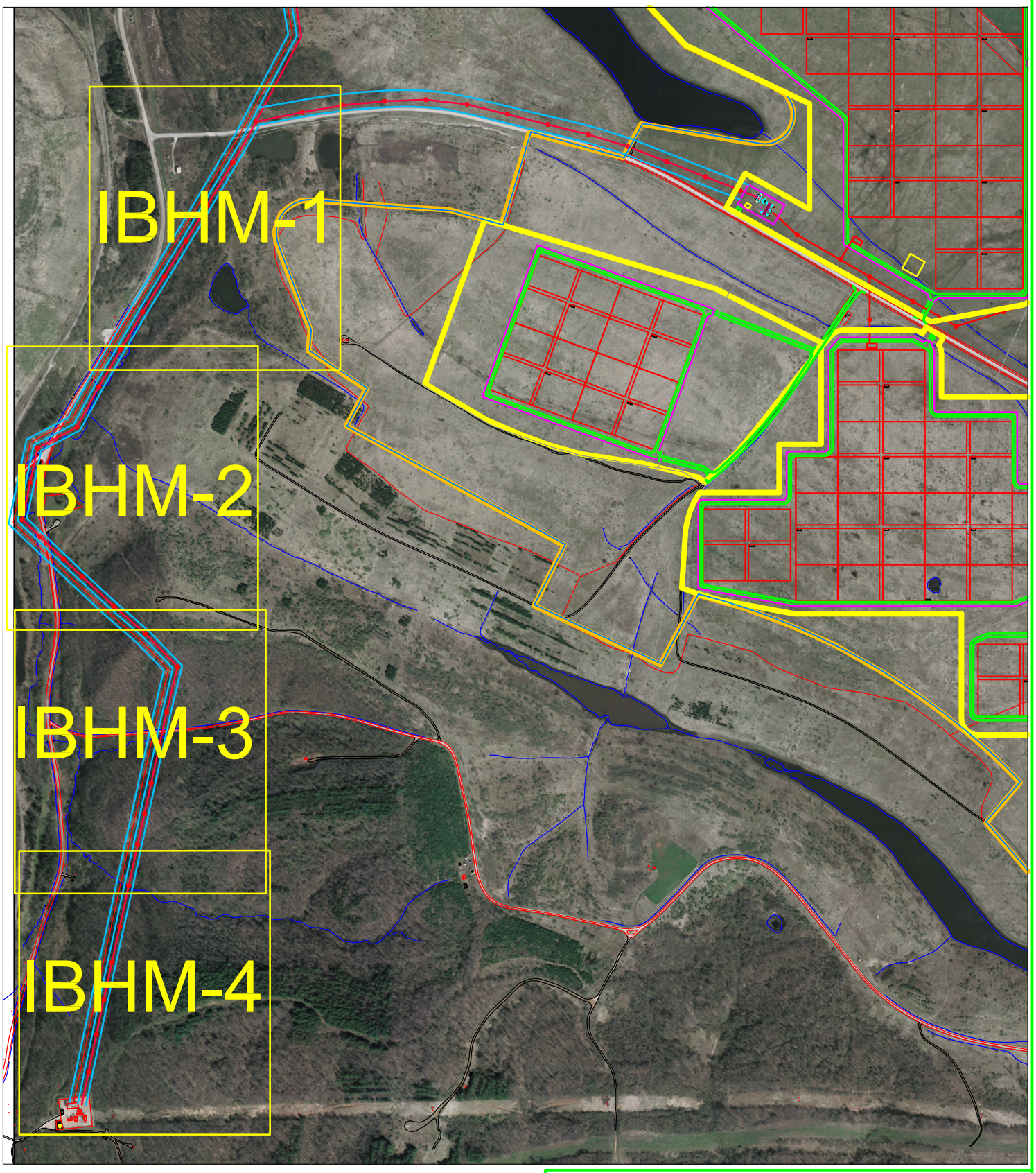
provided on October 25, 2011, Rannells Creek runs parallel with this portion of the proposed transmission line corridor and the eastern portion of the proposed corridor is forested. This area may be suitable as foraging habitat for the Indiana bat. The area located to the east of the transmission line corridor consists mostly of herbaceous and scrub/shrub vegetation with some scattered trees. The scattered trees in this area are immature with the exception of a few sycamores (*Platanus occidentalis*) none of which will be cut down as a result of the proposed project. Several emergent wetlands are also located to the east of this portion of the transmission line and two corridors associated with intermittent streams are perpendicular to this portion of the transmission line corridor. The riparian zones of these streams are mostly herbaceous.

East of the Southern Portion of the Transmission Line (See Exhibits IBHM-3 and IBHM-4)

The area located east of the southern portion of the transmission line is predominantly forested. The canopy is best characterized as a beech-maple forest with the diameter (at breast height) of trees typically ranging from 6 to 15 inches. Although a habitat assessment was not conducted within this area, trees that possess roosting habitat characteristics may be present within this forested area. With the exception of Rannells Creek which is located east of the proposed transmission line and runs parallel to this portion of the project area, the transmission line is traversed by two perennial tributaries to Rannells Creek (See Exhibit IBHM-3). The understory within and immediately surrounding the transmission line corridor is dense and is largely dominated by multiflora rose (*Rosa multiflora*). Foraging habitat for the Indiana bat is not ideal in the area within close proximity to the transmission line corridor due to the dense understory. The understory is less dense further east of the transmission line corridor. No trees will be cut down within these areas located east of the proposed corridor.as a result of the proposed project

3. What is the timeframe for construction of the transmission line?

The transmission line will be constructed during the first four months of the overall project construction period. The construction start date will depend on several factors including receipt of all required permits, availability of project equipment, project financing and site conditions. Should construction occur during the timeframe when there might be roosting activity the Project will notify the USFWS and re-survey the transmission line corridor.



Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-Key.
Transmission Line

0 800'
1" = 800'

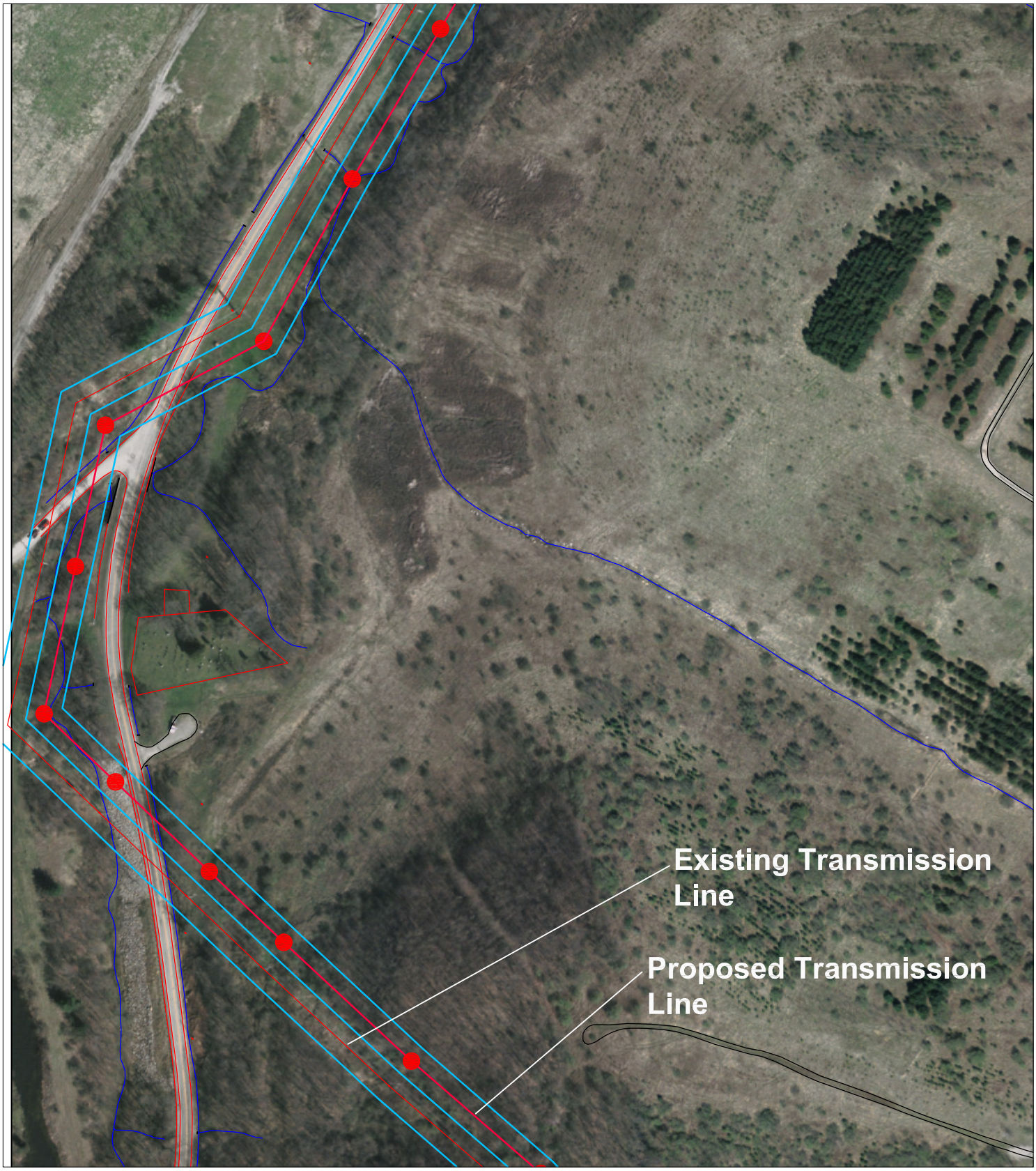
URS

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-1. North End of Transmission Line

0 200'
1" = 200'

URS



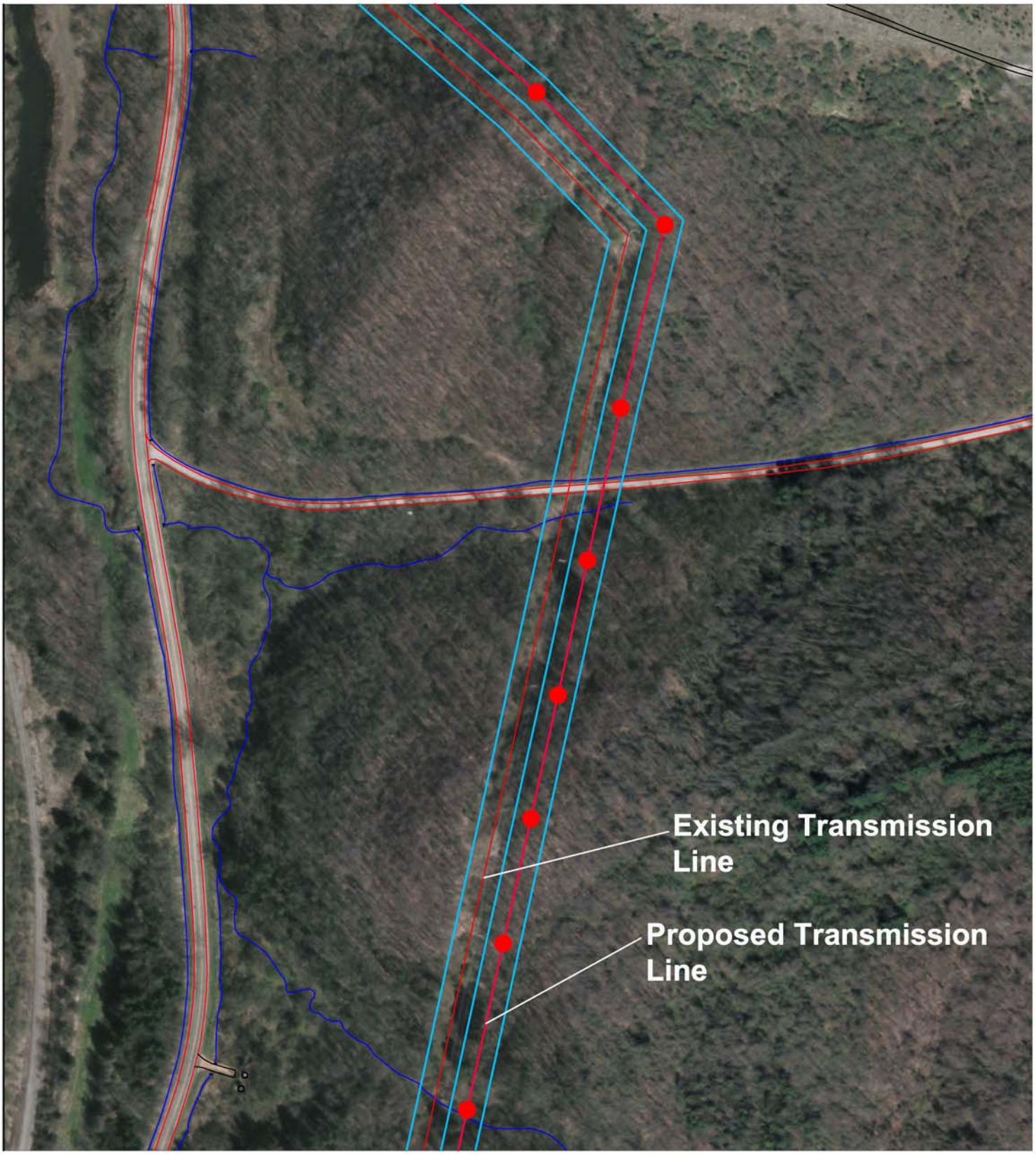
0 200'

1" = 200'

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-2. North-Center Part of Transmission Line

URS

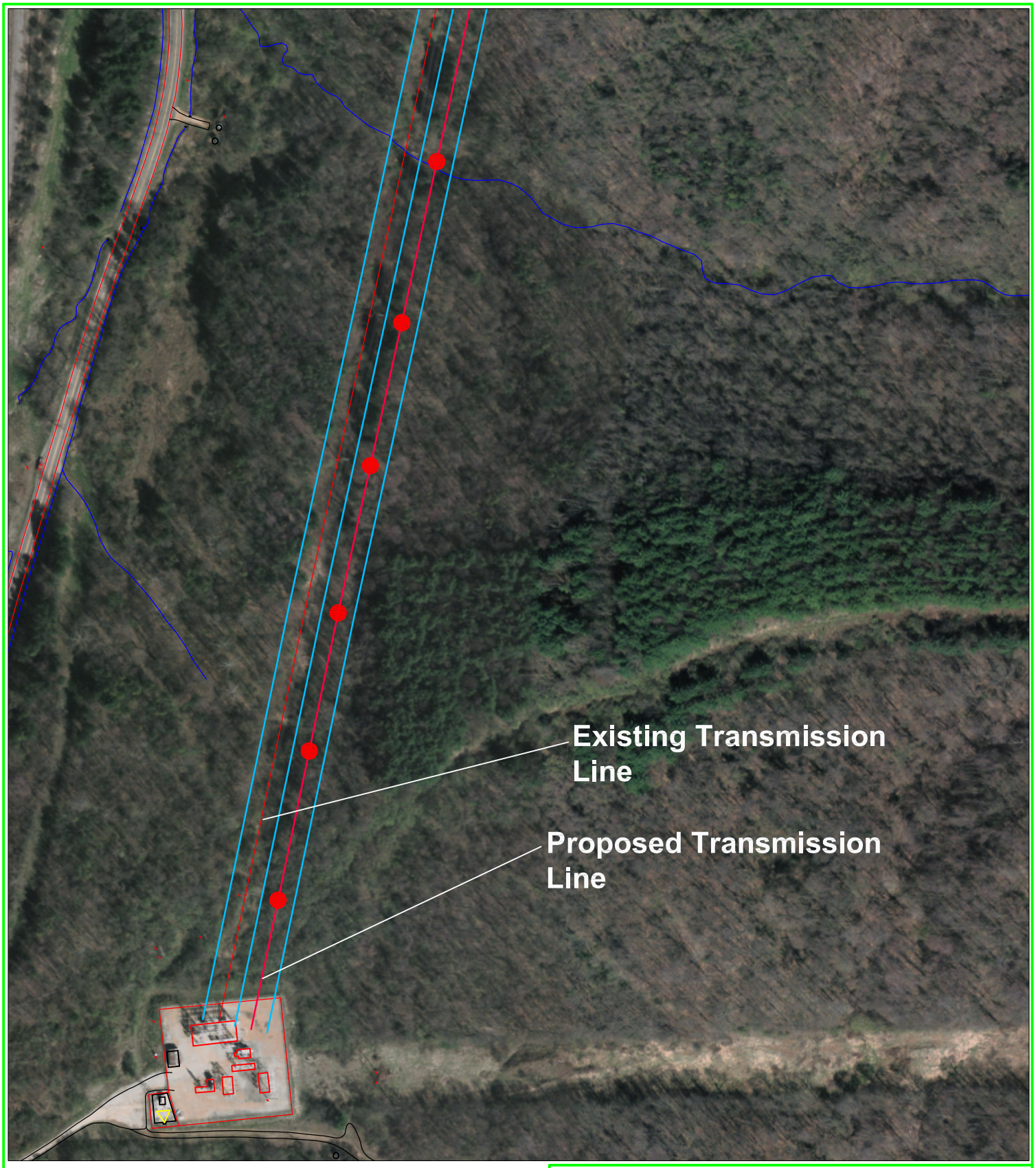


Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-3. South-Center Part of Transmission Line

0 200'
1" = 200'

URS



0 200'
1" = 200'

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-4. South End of Transmission Line

URS

OHIO HISTORY

A-13

December 14, 2011

Mark S. Plank
United States Department of Agriculture, Rural Development
1400 Independence Ave. S.W.
Washington DC, 20250-0700

Dear Mr. Plank:

Re: Turning Point Solar Generating Facility, Brookfield Township, Noble County, Ohio

This is in response to correspondence, received on November 3, 2011, regarding the proposed construction of a solar generating facility in Brookfield Township, Noble County, Ohio. My comments are made pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, and the associated regulations at 36 CFR Part 800.

Based on the information submitted, I concur with the opinion that the proposed action will not affect properties listed in or eligible for listing in the National Register of Historic Places. No further coordination with this office is necessary, unless the project changes or unless new or additional historic properties are discovered during implementation of this project. Should this happen, this office should be notified as required by 36 CFR 800.13.

If you have any questions regarding this matter, please call me, at (614) 298-2000. Thank you for your cooperation.

Sincerely,

Nathan J. Young, Project Reviews Manager
Resource Protection and Review

A-13 page 1

OHIO HISTORICAL SOCIETY
Ohio Historic Preservation Office
1982 Velma Avenue, Columbus, Ohio 43211-2497 ph: 614.298.2000 fx: 614.298.2037
www.ohiohistory.org

2011-NOB-18310

OHIO HISTORY

A-14

December 21, 2011

Lauren McGee
United States Department of Agriculture, Rural Development
1400 Independence Ave. S.W.
Washington DC, 20250-0700

Dear Ms. McGee:

Re: Turning Point Solar Generating Facility, Brookfield Township, Noble County, Ohio

This is in response to additional correspondence, received on December 19, 2011, regarding the proposed construction of a solar generating facility in Brookfield Township, Noble County, Ohio. This additional correspondence documents that the proposed right-of-way corridor is now 100 feet wide. My comments are made pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, and the associated regulations at 36 CFR Part 800.

Based on the information submitted, I concur with the opinion that the proposed action will not affect properties listed in or eligible for listing in the National Register of Historic Places. No further coordination with this office is necessary, unless the project changes or unless new or additional historic properties are discovered during implementation of this project. Should this happen, this office should be notified as required by 36 CFR 800.13.

If you have any questions regarding this matter, please call me, at (614) 298-2000. Thank you for your cooperation.

Sincerely,

Nathan J. Young

Nathan J. Young, Project Reviews Manager
Resource Protection and Review

OHIO HISTORICAL SOCIETY
Ohio Historic Preservation Office
1982 Velma Avenue, Columbus, Ohio 43211-2497 ph: 614.298.2000 fx: 614.298.2037
www.ohiohistory.org

2011-NOB-18310

URS

Memo

A-15

To: Angela Boyer and Megan Seymour, USFWS

From: Auggie Ruggiero, URS

CC: Apolka Totth, Agile Energy, Inc., Tracy Engle, URS, Jim Burns, URS

Date: 12/27/2011

Re: Turning Point Solar Project, Indiana Bat Habitat Assessment Second Addendum

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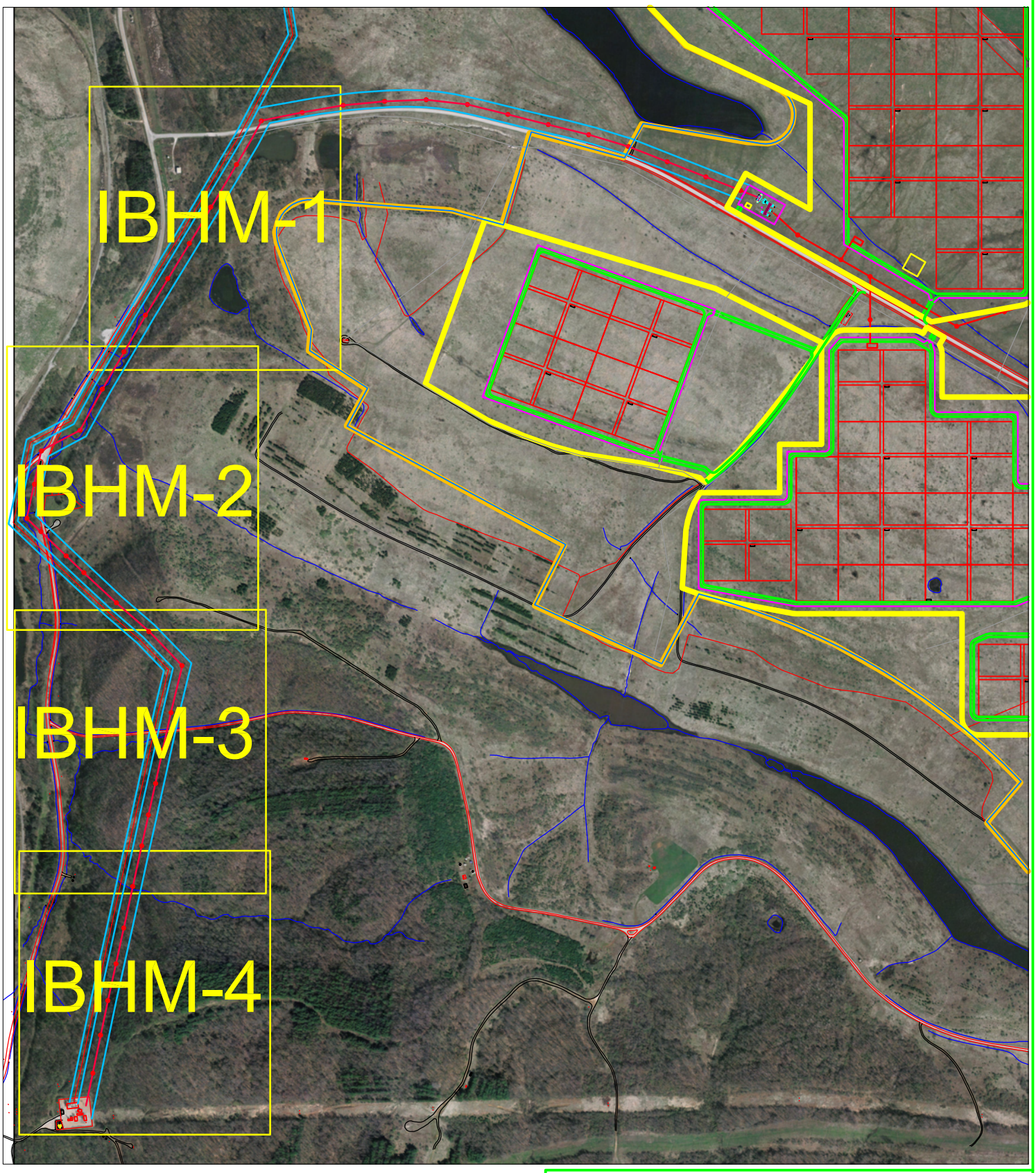
Our previous Indiana bat habitat assessment memos (October 25, 2011 and December 7, 2011) describe the transmission corridor for the project's transmission feeder line which will run for 1.87 miles to the Ohio Power Company's South Cumberland Substation as "50-foot wide." Approximately 1.29 miles (the southern two-thirds) of the proposed corridor would be located immediately adjacent and parallel to an existing 50-foot wide 69 kV electric transmission line right of way. Subsequent discussions with AEP have revealed that AEP requires a 100-foot right of way as opposed to the 50-foot we had initially envisioned. Their experience has been that the 100 foot distance is necessary for safe working conditions when they bring in equipment to work on the line or towers.

The 100 foot corridor remains in the same position (i.e., immediately adjacent and parallel to the existing right of way), but now extends 100 feet instead of 50 feet to the east from the eastern edge of the existing. Our survey in the field was broad enough to cover the 100 foot corridor and the conclusions remain the same as they were for the original 50 foot corridor (see attached exhibits). As indicated in the memorandum provided to the USFWS on December 7, 2011, the area located to the east of the northern portion of the transmission line corridor consists mostly of herbaceous and scrub/shrub vegetation with some scattered trees. The scattered trees in this area are immature with the exception of a few sycamores (*Platanus occidentalis*) none of which will be cut down as a result of the proposed project. The area located east of the southern portion of the transmission line is predominantly forested and although a habitat assessment was not conducted within this area, trees that possess roosting habitat characteristics may be present. However, TPS has committed to conduct any tree-cutting activities between September 30 and April 1 to preclude any potential impact to Indiana bat habitat.



0 800'

1" = 800'

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-Key.
100-foot Transmission Corridor

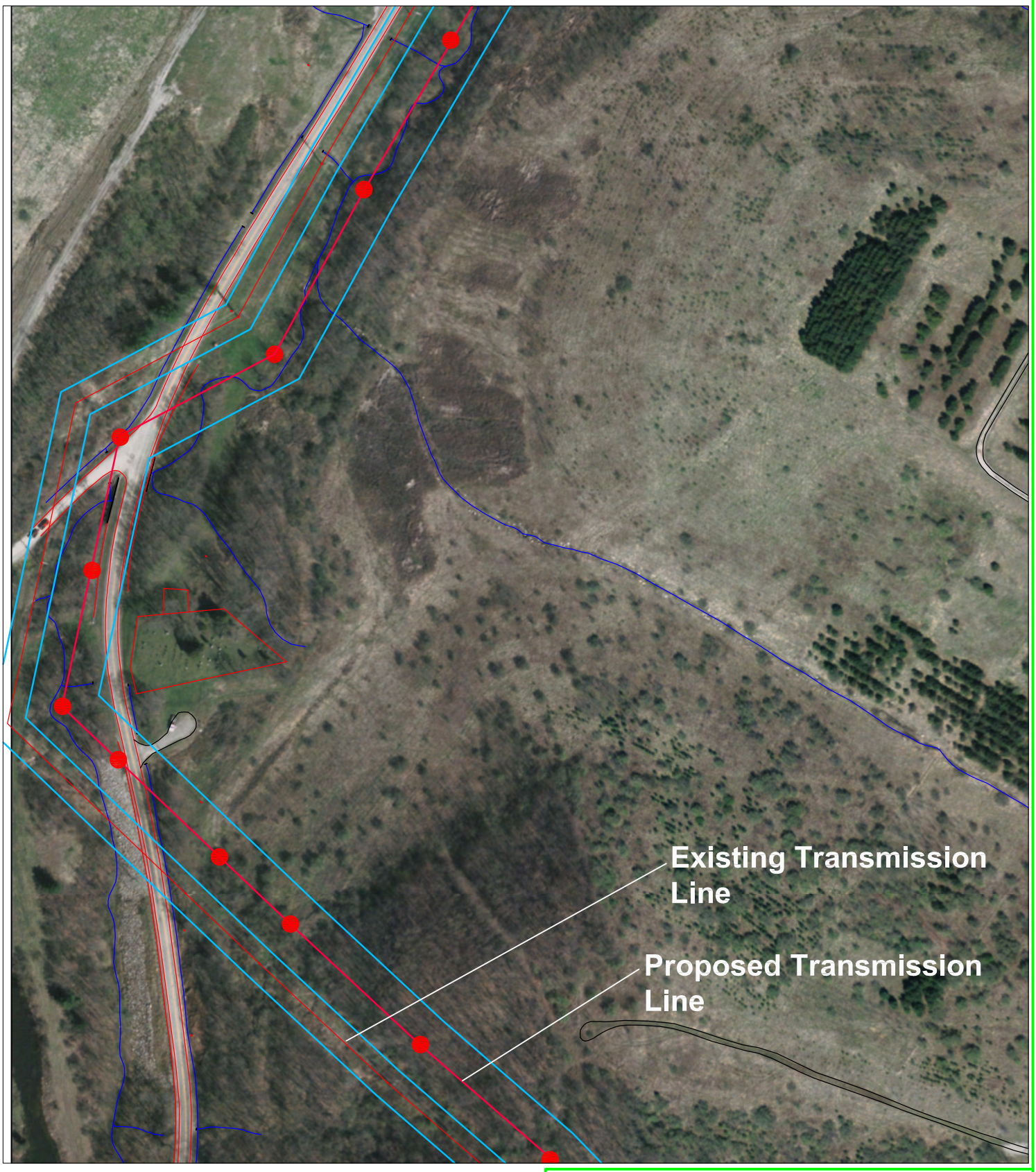
URS

0 200'
1" = 200'

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-1. North End of 100-foot Transmission Corridor

URS

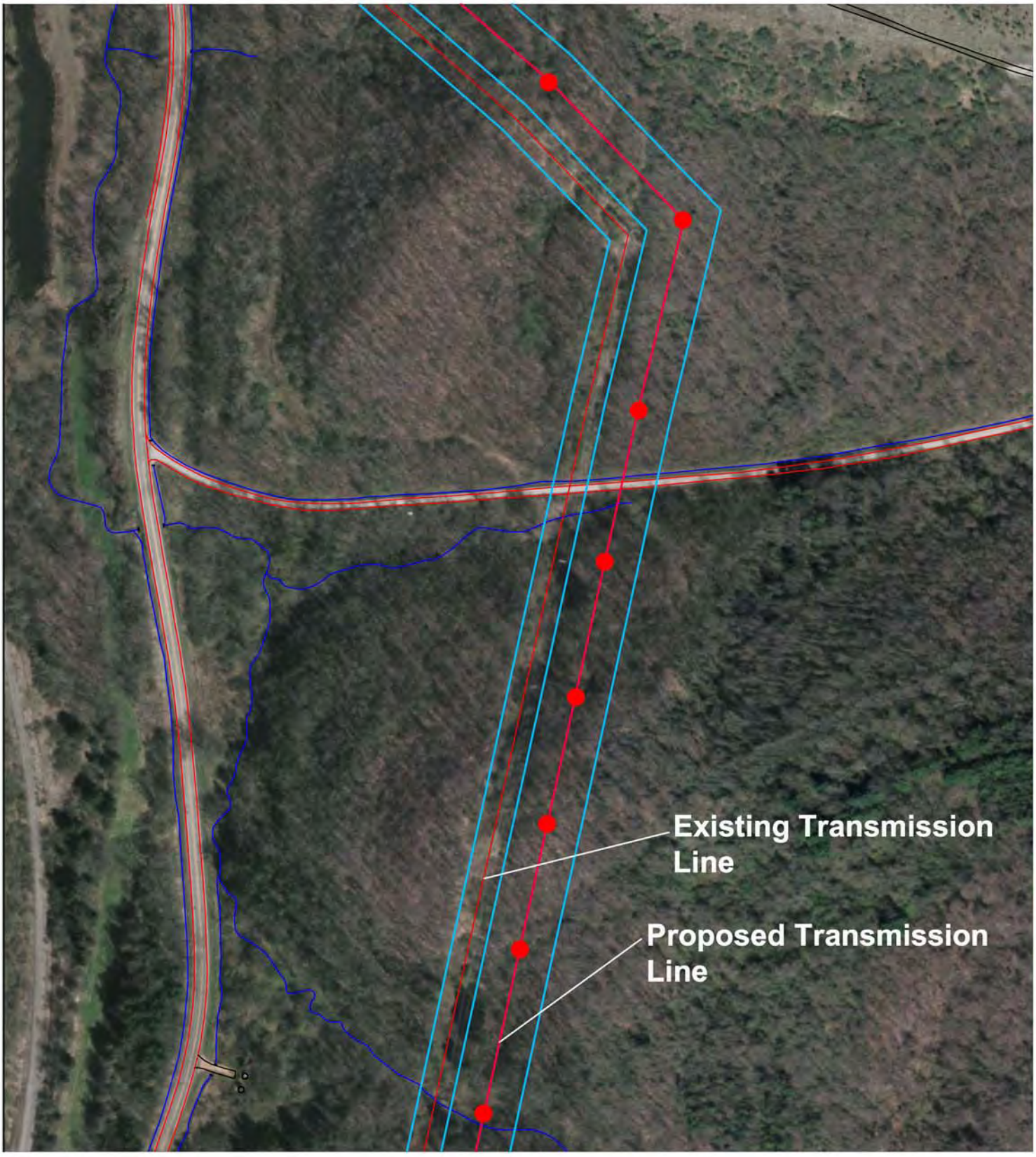


Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-2. North-Center Part of 100-foot Transmission Corridor

0 200'
1" = 200'

URS

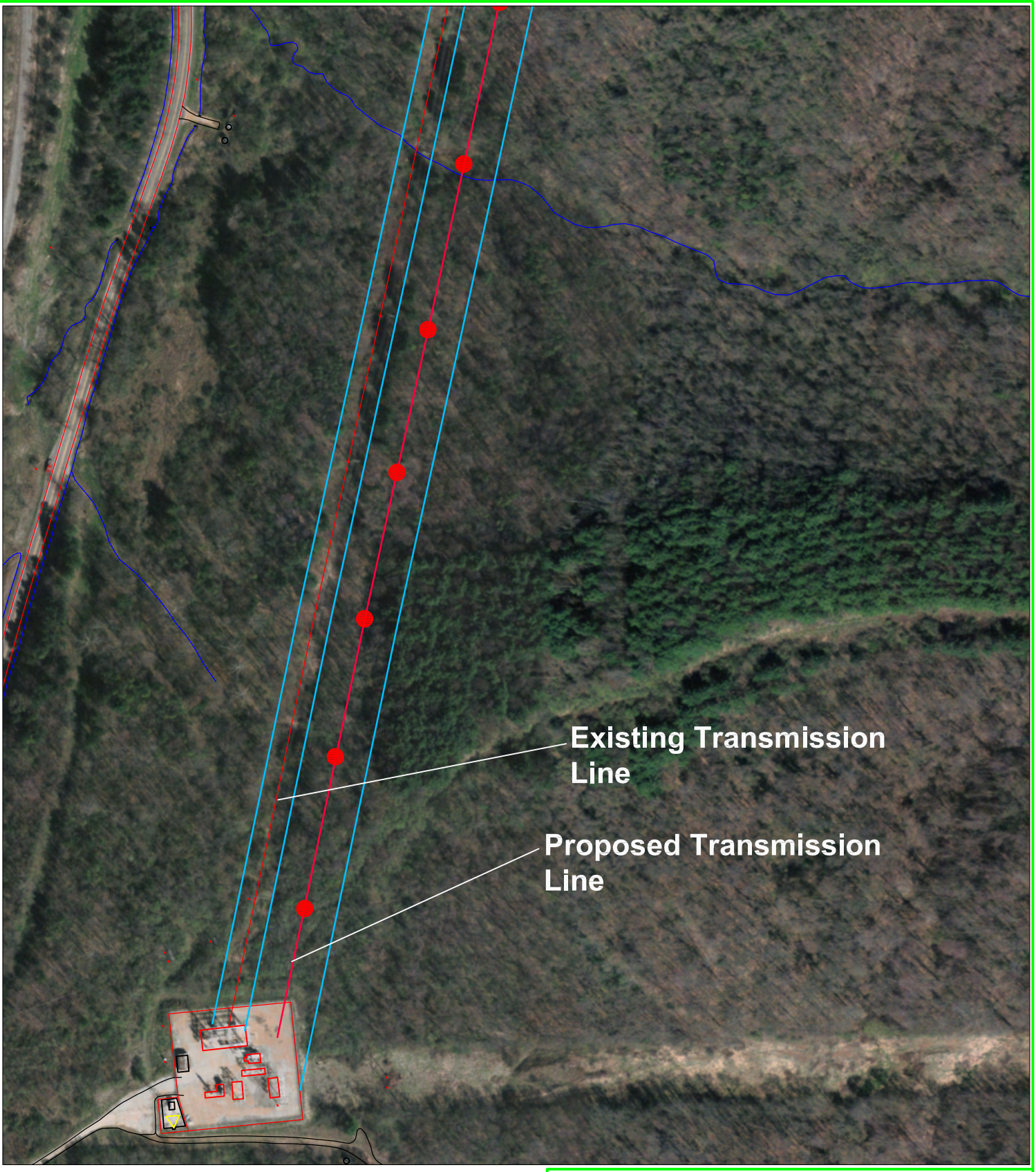


Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-3. South-Center Part of 100-foot Transmission Corridor

0 200'
1" = 200'

URS



0 200'
1" = 200'

Turning Point Solar
49.9 MW Photovoltaic Facility

Exhibit IBHM-4. South End of 100-foot Transmission Corridor

URS