MEMORANDUM

To: Howard Post, Town of Saugerties Planning Board Chair
Members, Town of Saugerties Planning Board

From: Hannah Motyka; Senior Environmental Scientist/Project Manager
Dylan Tuttle; Senior Planner

Date: August 14, 2026

Re: KCE NY 34 LLC
7 Tomsons Road, #150
SBL 18.1-4-5.100

CC: Becky Bertorelli, Planning Board Clerk
Paul Larios, Town Engineer
George Redder, Esq., Planning Board Attorney
Paul Williamson, Development Director KCE, LLC.

Nelson, Pope & Voorhis, LLC (NPV), was engaged by the Town of Saugerties to conduct a desktop review of the project site (described below) as well as the materials submitted by the Applicant, KCE NY 34 LLC., to the Town of Saugerties ("Town") in associate with the proposed KCE NY 34 BESS application. The following material was provided by the applicant's environmental consultant:

- Memorandum: Listed Species Review, Habitat Assessment, and preliminary impact Determination by Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. (EDR), dated July 6, 2026
- Wetland and Stream Delineation Report prepared by EDR, dated July 2025
- KCE NY 34 Site Plans, drafted by EDR, dated April 3, 2026, revised July 7, 2026
- Memorandum: NPV Ecological Memo, dated March 6, 2026; KCE NY 34 Response submitted July 7, 2026

NPV responses have been added in blue. Previously addressed comments where no further action is required have been removed for clarity and can be found on prior memos.

Memorandum: Listed Species Review, Habitat Assessment, and preliminary impact Determination

1. The "Listed Species Review, Habitat Assessment, and Preliminary Impact Determination" utilized the beta version of the USFWS IPaC intended for testing use only. The applicant should utilize the "Live" version of IPaC to ensure the accuracy of the species list and the technical assistance letter generated by use of the D-Keys.

   4/10 KCE Response: EDR conducted an updated USFWS IPaC review for the Project on March 30, 2026 using the "Live" version of the IPaC system. Please refer to the attached Listed Species Memorandum – Revision 1. The Official Species 2 List and Technical Assistance Letters generated by the beta version and the "Live" version of the IPaC identified the same species and determination key results.

5/14 NPV Response: The completion of the IPaC review and relevant D-key has generated a determination of "May Affect" for the endangered Indiana bat. If additional coordination was initiated, KCE should provide any additional correspondence with the USFWS. Per the provided memorandum Listed Species Review, Habitat Assessment, and Preliminary Impact Determination, KCE has agreed to limit tree clearing activities to November 1 thru March 31 of any given year when the referenced endangered bat species are not anticipated to be active within the landscape.

7/7 KCE Response: No additional consultation with USFWS has been conducted beyond completion of the IPaC review and the applicable determination keys (D-keys). There is no federal permit required (i.e., United States Army Corps of Engineers Nationwide Permit) and therefore no federal nexus. As such, there is no requirement for Endangered Species Act (ESA) consultation. However, as indicated in KCE's 4/10 response, to avoid potential impacts to any bat species, KCE is committing to conducting all tree clearing during the bat hibernation period of November 1 through March 31, when these species are expected to be inactive within the Project Area.

8/14 NPV Response: Response acknowledged. KCE has agreed to limit tree clearing activities to November 1 thru March 31 of any given year when the referenced endangered bat species is not anticipated to be active within the landscape. Comment has been resolved.

KCE NY 34 Site Plans, drafted by EDR, dated April 3, 2026, Revised July 7, 2026

2. A review of pertinent sheets of the site plan show tree removal and site work are proposed within the wetlands identified as 23-W002 and 23-W001. Wetlands are ecologically valuable habitats that provide a variety of beneficial impacts to wildlife and the surrounding habitats. Alterations to wetland habitats should be avoided where possible. As shown on C-201 and C-202 the installation of an underground electric via horizontal directional drill avoids the requirement for any clearing to or disturbance within the 23- W002 wetland and is therefore the preferred option to eliminate potential impacts to the freshwater wetland system from the potential construction and operation of an overhead connection.

   4/10 KCE Response: No earth disturbance is proposed in these wetlands. Tree clearing is the only proposed activity in wetlands. As noted in other responses in this letter, tree clearing in wetlands has been minimized to the maximum extent possible, and tree clearing will completed via non-mechanized methods with stumps remaining.

   Along gen-tie Route Option 1, the gen-tie line will be installed via horizontal directional drilling (HDD) beneath the existing gas pipeline to avoid disturbance associated with that utility crossing. HDD installation beneath Wetland 23-W002 was evaluated; however, HDD under the wetland was determined to be not practicable due to localized topographic constraints along this portion of the gen-tie route.

   Gen-tie Route Option 2, which completely avoids Wetland 23-W002, is the preferred option. As the Applicant previously clarified, a Crossing License Agreement Application was submitted with the request to CHGE for approval of Option 2. If Option 2 for an underground line on CHGE property is approved, the easement north of the substation will not be utilized.

   5/14 NPV Response: NPV understands Gen-tie Route Option 2 remains the preferred route. As the final determination of routing has not been made, the Applicant should provide a description of maintenance means and methods for potential Gen-tie Route Option 1 to ensure that potential impacts to the wetland

from continued maintenance of the overhead crossing are not incurred upon the completion of construction.

7/7 KCE Response: The requested information has been provided as TAB 18.

8/14 NPV Response: Response acknowledged. The plan is acceptable. It specifies hand cutting/trimming only in the wetland areas and prohibits the use of insecticides and herbicides. Comment has been resolved.

3. C-301 depicts grading will occur up to the delineated wetland boundary. There does not appear to be adequate area provided between the wetland boundary and the edge of grading and silt fence to reasonably allow for construction of grading or the stabilized slope without encroachment into the freshwater wetland. A minimum buffer should be maintained from the wetland to ensure no construction or operation impacts to the resource.

   4/10 KCE Response: A note has been added to the Project Site Plans, Sheet C-301 clarifying that no excavation or disturbance is permitted within the wetland, and that a minimum 2-foot buffer shall be maintained between the wetland boundary and any grading or the toe of the embankment. A blow up of this area showing the silt fence a minimum of one foot from the edge of wetland and two feet from any grading or toe of the embankment, has been added to Sheet C-301.

   5/14 NPV Response: Response acknowledged. Limited space is provided between the bottom of the slope and the wetland. The Town Engineer will review site grading, including in this area, to ensure that the slope is appropriate to hold and not slough.

   8/14 NPV Response: This comment was not addressed in the July submission. We continue to defer to the engineer.

4. Per Sheets C-001 and C-002, tree clearing is proposed in two wetlands within the Project Site. All disturbance of wetland resources should be minimized to the maximum extent practicable. Additionally, a native revegetation plan should be provided for the disturbance of any wetlands.

   4/10 KCE Response: Tree clearing in wetlands has been minimized to the maximum extent possible. The proposed overhead gen-tie route Option 1 crossing is located at the narrowest practicable section of the wetlands. Trees within the wetlands will be hand cut; no mechanized clearing, stumping, or chipping will occur within the wetlands, and stumps will remain undisturbed.

   Consistent with these measures, the tree clearing callouts on the Project Site Plans, Sheets C-001 and C-002 specify that tree clearing within wetlands shall be completed via non-mechanized methods, tree stumps shall remain, and no soil disturbance is permitted in wetlands.

   Timber mats or other wetland protection matting will be used where necessary to support construction vehicles crossing wetlands along the gen-tie route. Because no ground disturbance is proposed in the wetlands, a native revegetation plan for wetlands is not needed.

   5/14 NPV Response: Response acknowledged; comment has been partially resolved. An inventory of all trees greater than 6" dbh identified for removal within the wetland areas should be inventoried, as specified in §245-33C(2)(t), and a comprehensive list should be provided to the Town so as to accurately reflect the scope and extent of tree clearing.

7/7 KCE Response: All trees with a diameter at breast height (dbh) of 6 inches or greater within the proposed tree clearing area have been inventoried and are shown on plan Drawings C-003 and C-004. An inventory list of these trees, including each tree's assigned identification number, dbh, species, general conditional, and whether it is located within a wetland, is provided on Drawing C-005. No trees with a dbh of 6" or greater proposed for removal are within delineated wetland areas.

8/14 NPV Response: Response acknowledged. KCE has agreed to limit tree clearing activities to November 1 through March 31, when endangered bat species are not anticipated to be active within the landscape. The tree survey reveals a transitional forest area of generally small- to medium-sized trees. A total of 245 trees greater than 6" would be removed from the site, with approximately half of these located along gen-tie route 1. Should Central Hudson approve route 2, the total would be reduced to 125. The survey shows that there are few trees significantly larger than the 6" threshold. 47 (19%) are greater than 12", and most of these (34) are in the gen-tie route 1 area. No trees above 6" dbh would be removed from within wetland areas. Comment has been resolved.

5. Per Sheet C-601 Slope Stabilization Detail, the erosion control mats will be overseeded. Please provide details for seed mix proposed. All proposed seed mixes should be free of invasive species and represent an appropriate mix of native species where possible.

7/7 KCE Response: The proposed seed mixes have been added the General Notes and Abbreviations plan drawing (drawing number G-002) included with this submission.

8/14 NPV Response: Response acknowledged; comment partially resolved. NPV has reviewed the proposed seed mix details and concurs that the proposed mix does not include any invasive species. However, the proposed seed mix does not contain species considered to be native and the mix provides a limited ecological value. The applicant should consider incorporating native species to enhance the ecological value of the proposed seeding. Suggested native species could include Switchgrass (*Panicum virgatum*), Indian Grass (*Sorghastrum nutans*), Little Bluestem (*Schizachyrium scoparium*), Red Fescue (*Festuca rubra*), Canada Wild Rye (*Elymis canadensis*).

Wetland and Stream Delineation Report prepared by EDR, dated July 2025

NPV withholds commenting on the data presented within the Wetland and Stream Delineation Report prepared by EDR until after conducting a site visit in the appropriate growing season.

4/10 KCE Response: To better assess potential impacts of the Proposed Project, the Applicant is amenable to NPV conducting a site visit during the 2026 growing season.

5/14 NPV Response: NPV conducted a site visit to the project site on April 17, 2026. We have the following post-visit comments:

6. As noted previously by NPV the boundary of wetland 23-W002 delineated by EDR appeared to conflict with the boundary delineated by Colliers Engineering & Design as part of an adjacent project proposal. The delineated boundary was reviewed during the site inspection; however, at times there was confusion over flags placed by EDR versus those placed by Colliers. As such, NPV defers final recommendation over the accuracy of the delineation until a site visit can be conducted with the adjacent applicant.

8/14 NPV Response: NPV is in the process of comparing the delineations presented by EDR and Colliers Engineering & Design, however, a review of the submitted materials and field inspections by NPV staff found that the wetland delineation submitted by EDR appears to be more conservative on the side of the wetland than that

of Colliers Engineering & Design. The wetland delineation by EDR presents a "maximum extent" and the boundary of the delineated wetland would not be expected to encroach landward during the resolution of the wetland boundary between applicants. NPV accepts the wetland delineation as depicted by EDR for the purposes of this review.

7. NPV observed a relatively small vernal pool on the west side of the proposed development area that contained an egg mass potentially indicating productivity. No apparent connection to the on-site wetlands was visualized. The location of the vernal pool should be indicated on the site plan and incorporated into the provided wetland and habitat analyses.

7/7 KCE Response: KCE Response: The vernal pool is now shown on the site plans. Section E.1.b. of EAF Part 1 has been updated to include the vernal pool, and in accordance with the EAF Part I instructions, the vernal pool acreage has been included in the wetland acreage. The updated EAF Part 1 is included with this submission (TAB 05). In addition, the Listed Species Memorandum (TAB 06) has also been updated to include a description of the vernal pool under the Land Cover and Existing Site Conditions section.

On April 17, 2026, Nelson Pope Voorhis and EDR attended on behalf of the Town of Saugerties, conducted a joint site visit with EDR to review the boundaries of previously delineated wetlands. During the site visit, the vernal pool was delineated. The vernal pool is a small, approximately 0.02-acre isolated seasonal depression with no apparent connection to any of the on-site wetlands. While the project will impact the vernal pool, it does not constitute a wetland regulated under Article 24 of the New York State Environmental Conservation Law. The project will therefore not impact any Article 24-regulated wetlands, as confirmed by the NYSDEC negative parcel jurisdictional determination received on July 1, 2025. While a vernal pool is by definition not a Waters of the United States (WOTUS), if it were to be deemed a WOTUS, the impact to the vernal pool is below the USACE 0.1-acre impact threshold that requires a preconstruction notification.

Based on the results of desktop review, none of the databases EDR consulted (i.e., USFWS IPaC, NYSDEC ERM, or NYSDEC EAF Mapper) or correspondence with the NYNHP identified the presence of listed threatened or endangered species are known to occur at or within the vicinity of the Project.

8/14 NPV Response: Response acknowledged; comment has been partially resolved. The location and analysis of the vernal pond should be incorporated into the Wetland and Stream Delineation Report.