Attachment AJ

USACE Preliminary Jurisdictional Determination (PJD)



DEPARTMENT OF THE ARMY BUFFALO DISTRICT, CORPS OF ENGINEERS 1776 NIAGARA STREET BUFFALO, NEW YORK 14207-3199

October 22, 2021

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Reference No. LRB-2021-00794

Riverside Solar, LLC 195 Montague Street 14th Floor, Suite 1461 Brooklyn, New York Attn: Joshua Baird

Dear Mr. Baird:

I have reviewed the aquatic resource delineation report and supporting materials submitted on your behalf by TRC requesting a preliminary jurisdictional determination (JD) for aquatic resources identified on the various parcels located in the Towns of Lyme and Brownville, Jefferson County, New York.

I have evaluated the submitted materials and have determined that the aquatic resource boundaries shown on the map accurately represent on-site conditions. Please note that this is a preliminary JD. Preliminary JDs are non-binding written indications that there may be waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

Pursuant to Regulatory Guidance Letter 16-01, any permit application made in reliance on this preliminary JD will be evaluated as though all aquatic resources on the site are regulated by the Corps. Further, all aquatic resources will be used for purposes of assessing the extent of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army jurisdiction for any or all of the aquatic resources identified on the submitted drawings, you may request an approved JD from this office. If an approved JD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

I have enclosed the signed preliminary JD Form dated October 14, 2021 with this letter. The form and attached table identify the extent of aquatic resources on the site and specific terms and conditions of the preliminary JD.

In accordance with Regulatory Guidance Letter 05-02, "Preliminary jurisdictional determinations are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of all aquatic resources on the parcel be re-evaluated by a qualified wetland biologist after five (5) years of the

Regulatory Branch

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date of the signed preliminary JD. This will ensure that any changes are appropriately identified; and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request.

This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

Questions pertaining to this matter should be directed to me at (716) 879-6330, by writing to Judy A. Robinson, U.S. Army Corps of Engineers, Auburn Field Office, 7413 County House Road, Auburn, New York, 13021, or by e-mail at: Judy.A.Robinson@usace.army.mil.

Sincerely.

Judy Robinson

Judy Robinson

Biologist

Enclosures

cc: Samantha Kranes, TRC

PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: October 14, 2021

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Riverside Solar, LLC 195 Montague Street 14th Floor, Suite 1461 Brooklyn, New York Attn: Joshua Baird

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Buffalo District, Auburn Field Office; Riverside Solar, LLC; File No. 2021-00794

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: Various sites adjacent to Route 12E, Case Road, Weaver Road

State: NY County: Jefferson City: Towns of Lyme and Brownville

Center coordinates of site (lat/long in degree decimal format):

Lat: 44.082385 Long: -76.066454

Name of nearest waterbody: Horse Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

(X) Office (Desk) Determination. Date: October 14, 2021

(X) Field Determination. Date: October 7, 2021

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site Number	Latitude (decimal	Longitude	Estimated amount	Type of aquatic	Geographic
	degrees)	(decimal degrees)	of aquatic	resource (i.e.,	authority to which
		, ,	resource in review	wetland vs. non-	the aquatic
			area (acreage and	wetland waters)	resource "may be"
			linear feet, if		subject (i.e.,
			applicable)		Section 404 or
					Section 10/404)
S-BF-1	44.0664	-76.0713	151 feet	Intermittent	Section 404
S-BF-2	44.0623	-76.0882	3272 feet	Intermittent	Section 404
S-BF-3	44.0518	-76.1166	1256 feet	Intermittent	Section 404
S-NSD-1	44.069	-76.1171	1542 feet	Perennial	Section 404
S-NSD-2	44.069	-76.1143	45 feet	Ephemeral	Section 404
S-NSD-3	44.0646	<i>-</i> 76.115	582 feet	Intermittent	Section 404
S-NSD-4	44.0664	-76.0917	607 feet	Ephemeral	Section 404
S-NSD-5	44.0665	-76.0859	3661 feet	Intermittent	Section 404
S-NSD-6	44.0632	-76.0928	79 feet	Intermittent	Section 404
W-BF-10	44.0617	-76.0831	1.44 acres	PEM	Section 404
W-BF-11	44.053	-76.1196	11.81 acres	PEM	Section 404
W-BF-11a	44.053	-76.1196	0.77 acre	PSS	Section 404
W-BF-12	44.0588	-76.1001	0.46 acre	PSS	Section 404
W-BF-2	44.08	-76.0693	0.17 acre	PEM	Section 404
W-BF-3	44.081	-76.0667	0.14 acre	PEM	Section 404
W-BF-5	44.0736	-76.0687	44.3 acres	PEM	Section 404
W-BF-5a	44.0736	-76.0687	2.3 acres	PSS	Section 404
W-BF-5b	44.0736	-76.0687	0.25 acre	PUB	Section 404
W-BF-6	44.0689	-76.0603	1.61 acres	PEM	Section 404
W-BF-6a	44.0689	-76.0603	13.0 acres	PFO	Section 404
W-BF-7	44.0695	-76.0692	1.48 acres	PEM	Section 404
W-BF-7a	44.0695	-76.0692	0.03 acre	PUB	Section 404
W-BF-8	44.0688	-76.0625	0.13 acre	PEM	Section 404
W-BF-9	44.0621	-76.0884	2.51 acres	PEM	Section 404
W-JJB-2	44.0538	-76.124	1.72 acres	PSS	Section 404
W-NSD-1	44.0694	-76.1147	1.12 acres	PEM	Section 404
W-NSD-10	44.0663	-76.0967	0.71 acre	PEM	Section 404
W-NSD-11	44.0641	-76.0928	2.47 acres	PEM	Section 404
W-NSD-12	44.0639	-76.0897	0.23 acre	PEM	Section 404
W-NSD-13	44.0639	-76.0897	1.31 acres	PEM	Section 404
W-NSD-1a	44.0694	-76.1147	0.82 acre	PFO	Section 404
W-NSD-1b	44.0694	-76.1147	0.15 acre	PUB	Section 404
W-NSD-2	44.0672	-76.1145	0.03 acre	PEM	Section 404
W-NSD-3	44.0664	-76.112	1.71 acres	PSS	Section 404
W-NSD-3a	44.0664	-76.112	7.11 acres	PFO	Section 404
W-NSD-4	44.0626	-76.1176	0.40 acre	PSS	Section 404
W-NSD-5	44.0607	-76.1134	0.09 acre	PEM	Section 404
W-NSD-5a	44.0607	-76.1134	1.87 acres	PSS	Section 404
W-NSD-6	44.0623	-76.113	0.30 acre	PSS	Section 404
W-NSD-7	44.0609	-76.105	2.71 acres	PEM	Section 404
W-NSD-7	44.0609	-76.105	0.98 acre	PSS	Section 404
W-NSD-7a W-NSD-9	44.0645	-76.0995	0.96 acre	PEM	Section 404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that:
- (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources;
- (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions;
- (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization;
- (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary;
- 5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD;
- (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and
- (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331.
- If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable.

This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- (x) Maps, plans, plots or plat submitted by or on behalf of the PJD requestor: Riverside Solar, LLC Map: See below for map details
- (x) Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - (x) Office concurs with revised data sheets and revised delineation report received on October 13, 2021.
 - Office does not concur with data sheets/delineation report. Rationale
- () Data sheets prepared by the Corps
- () Corps navigable waters' study
- () U.S. Geological Survey Hydrologic Atlas
 - () USGS NHD data
 - () USGS 8 and 12 digit HUC maps
- (x) U.S. Geological Survey map(s), Cite scale & guad name: 24000; Dexter, NY Quad
- (x) Natural Resources Conservation Service Soil Survey Citation: On-Line Web Soil Survey
- (x) National wetlands inventory map(s) Cite name: Dexter, NY Quad
- (x) State/local wetland inventory map(s) Cite name: Dexter, NY Quad
- () FEMA/FIRM maps
- () 100-year Floodplain Elevation is: _____. (National Geodetic Vertical Datum of 1929)
- (x) Photographs:
 - (x) Aerial (Name & Date): Basemap ESRI "world imagery map service"
- (x) Other (Name & Date): Photos taken in June, September and December 2020 contained in the delineation report.
- () Previous determination(s). File no. and date of response letter
- () Other information (please specify)

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Date:10/14/2021 Signature and date of Regulatory

udy Robinson

staff member

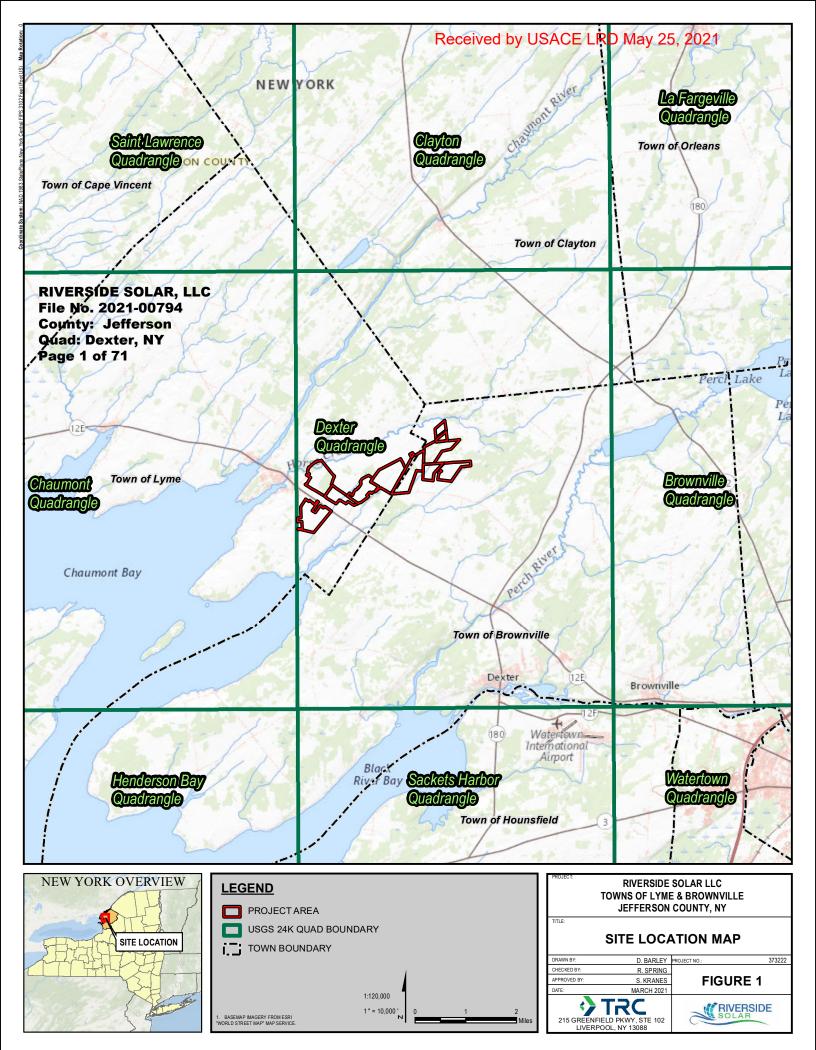
Joshua Baird

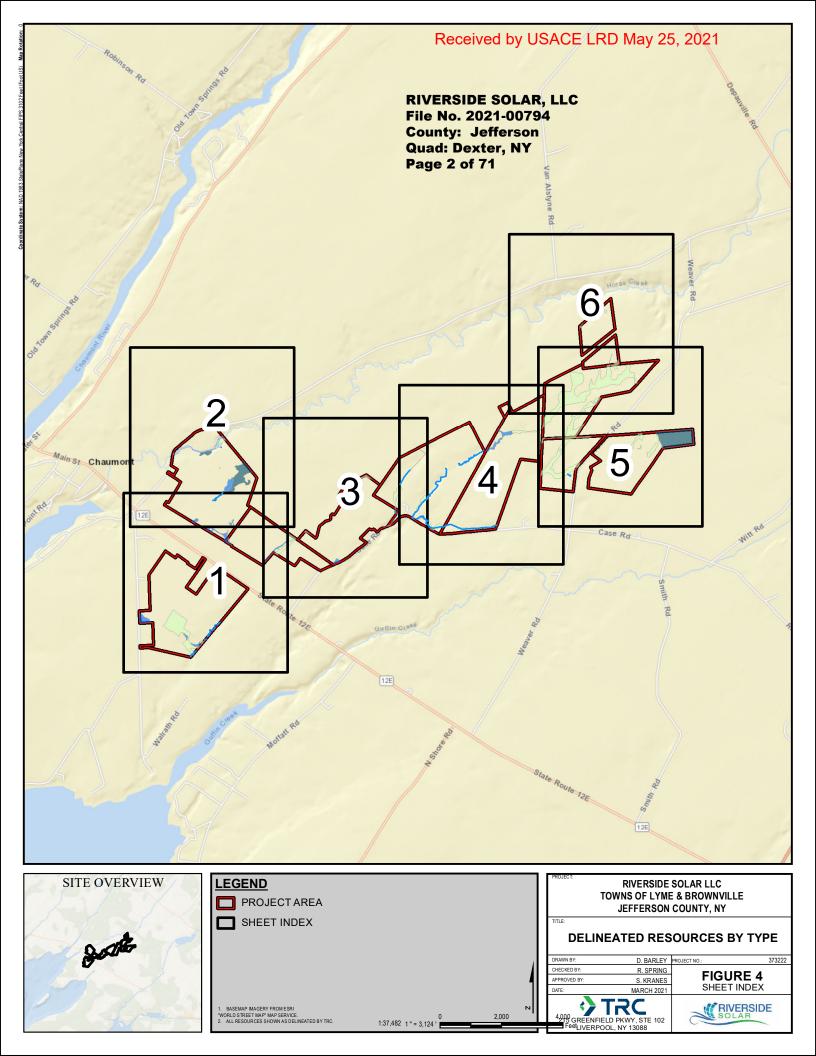
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Signature and date of person requesting PJD (REQUIRED, unless obtaining the signature is

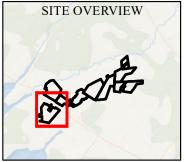
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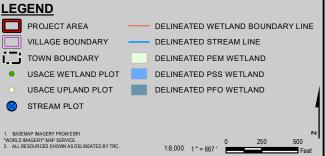
¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

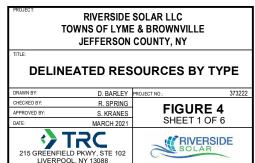




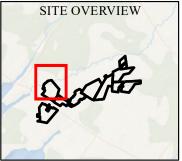






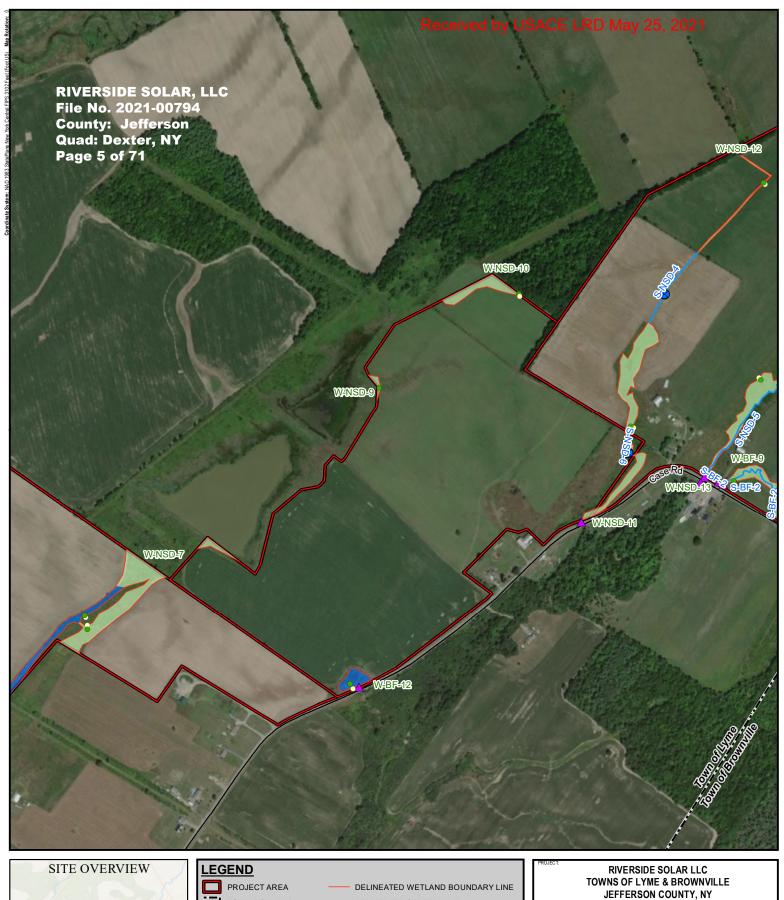


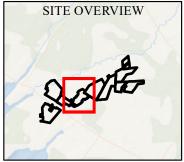


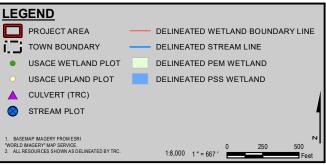


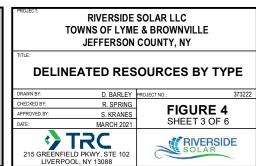


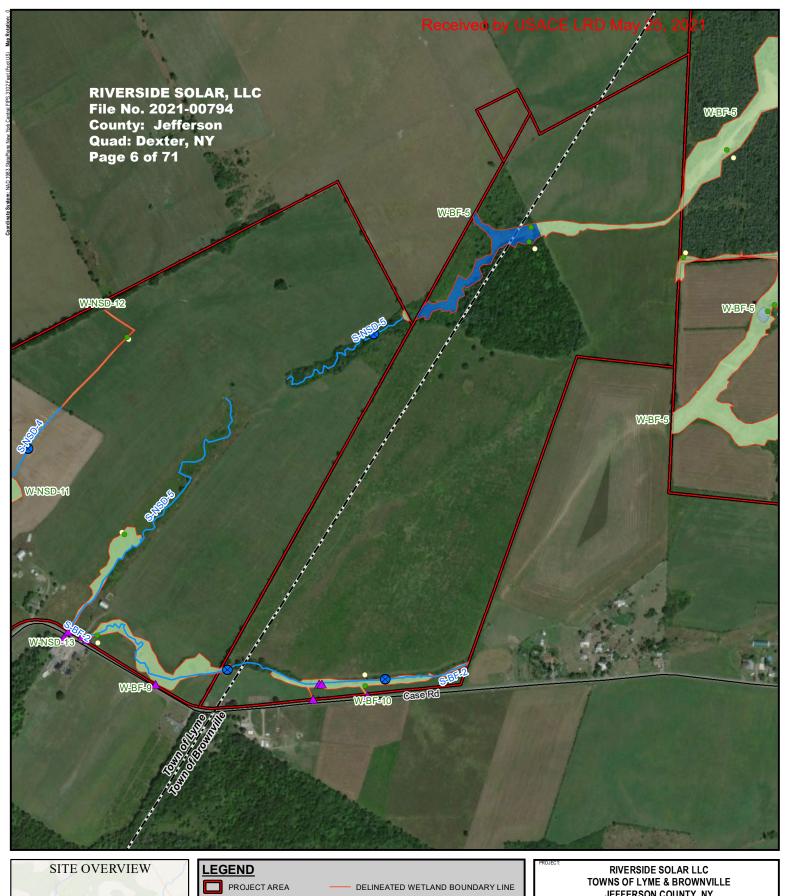


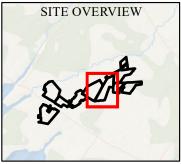


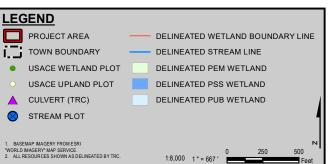


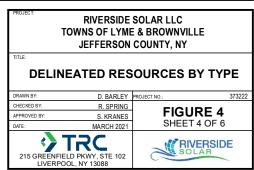


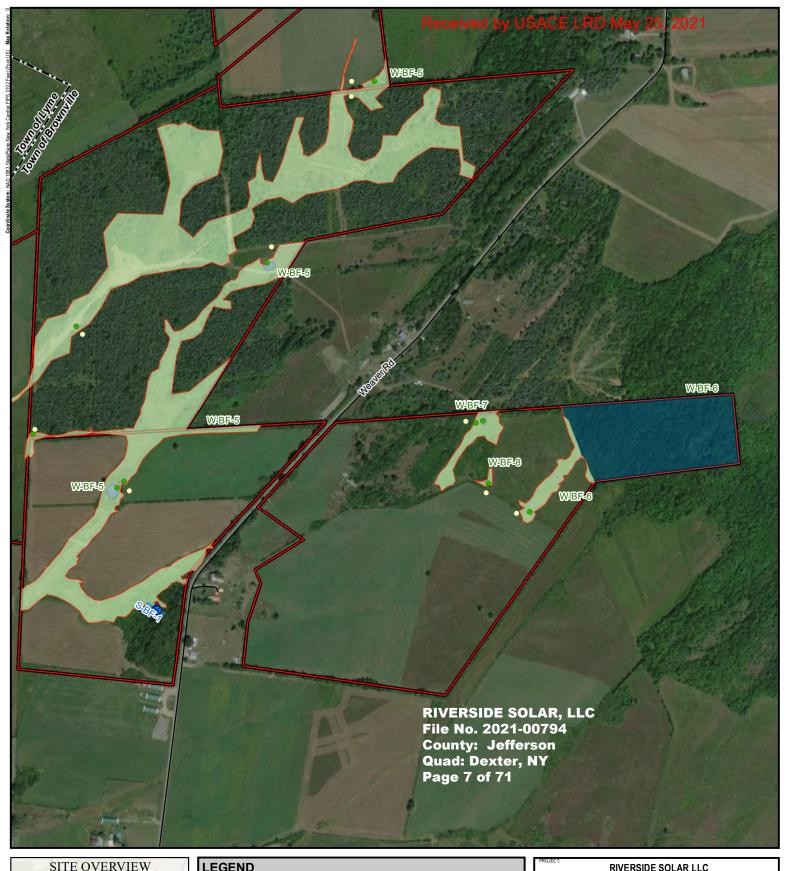


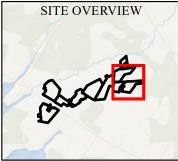


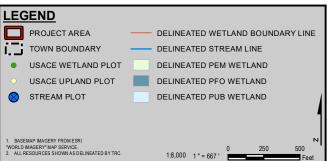


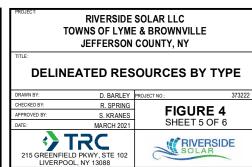


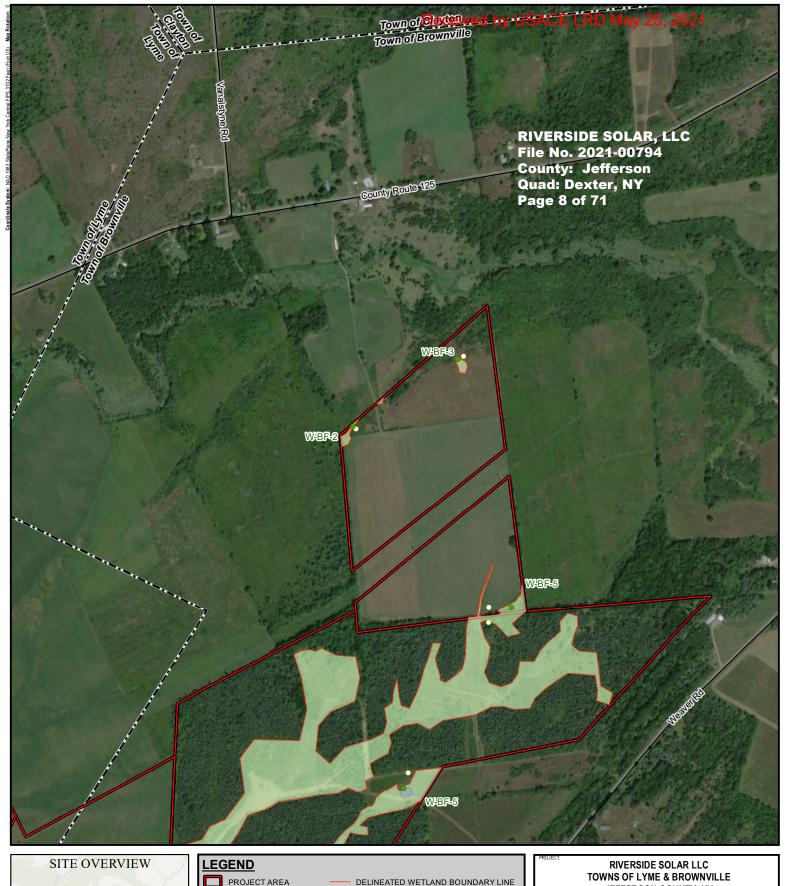


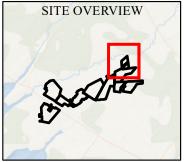


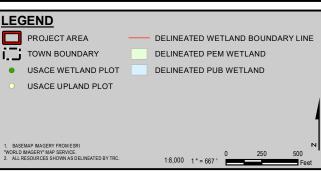


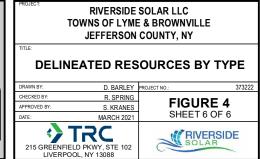


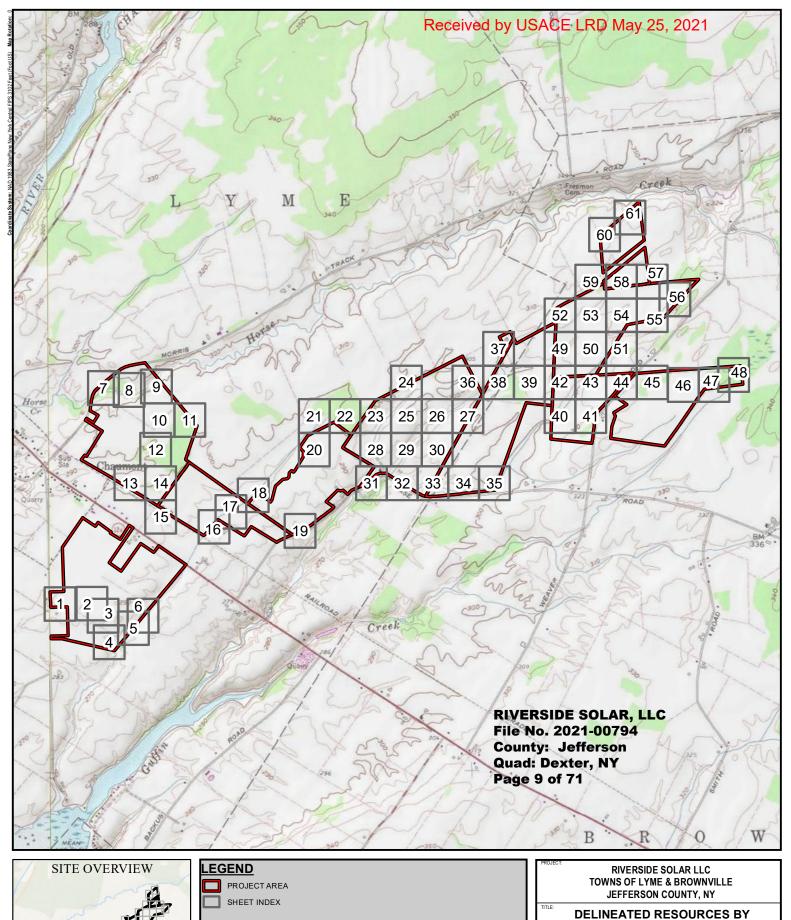


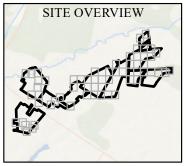


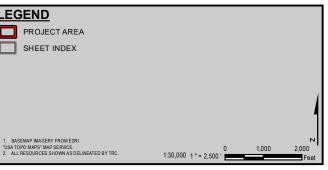






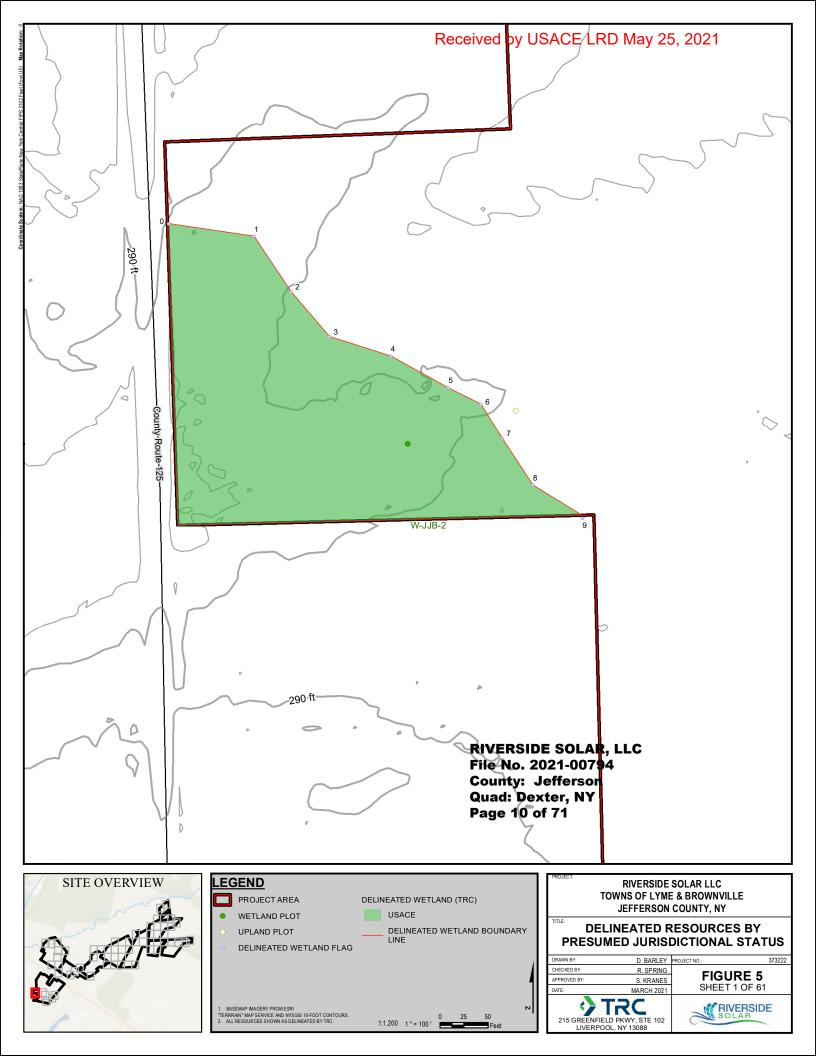


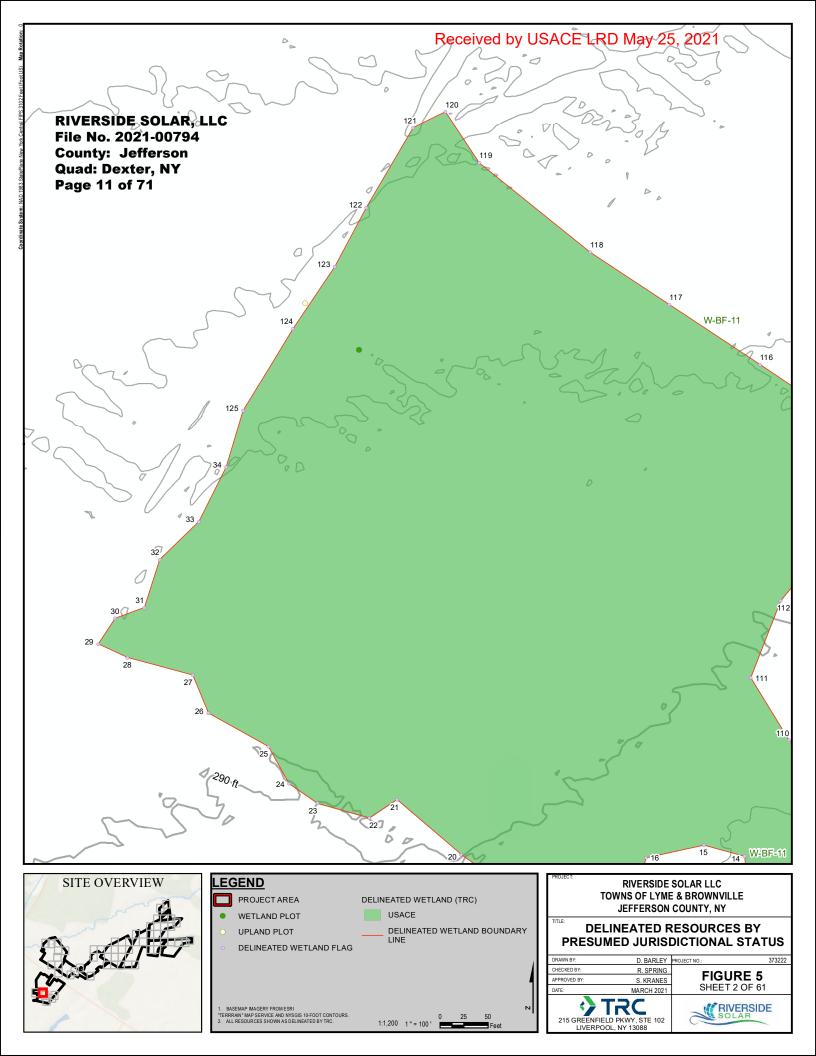


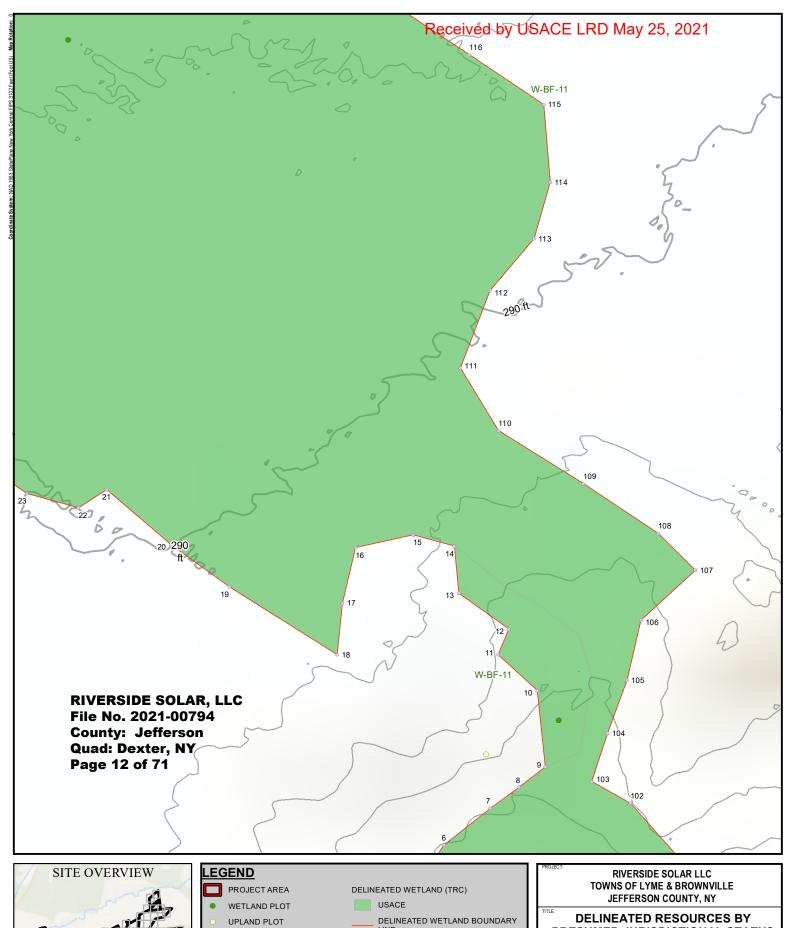


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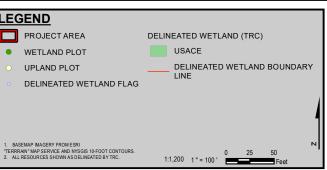
CHECKED BY R. SPRING FIGURE 5 SHEET INDEX S. KRANES RIVERSIDE SOLAR





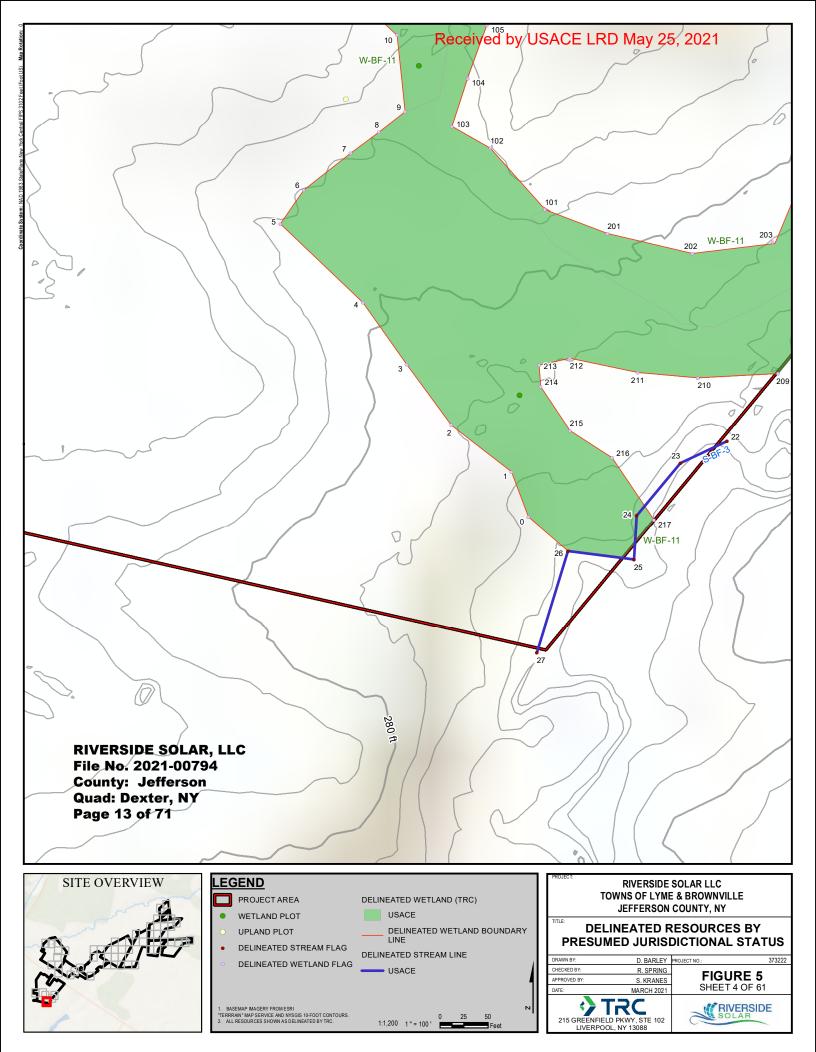


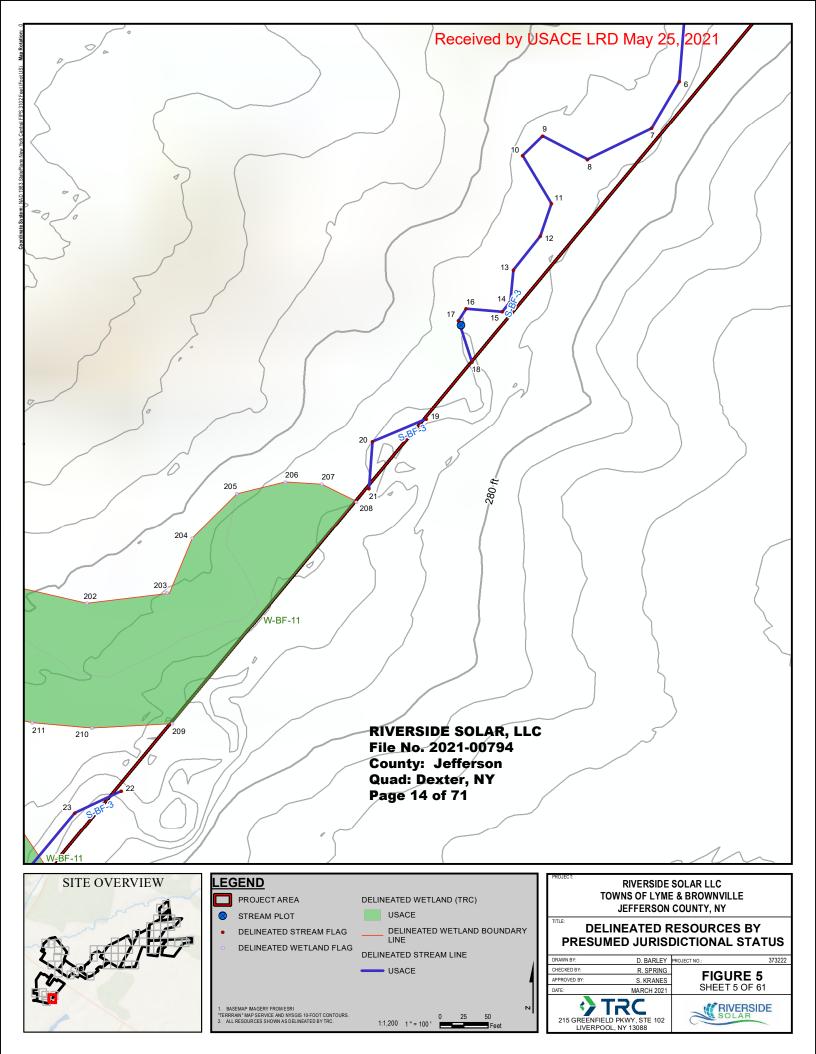


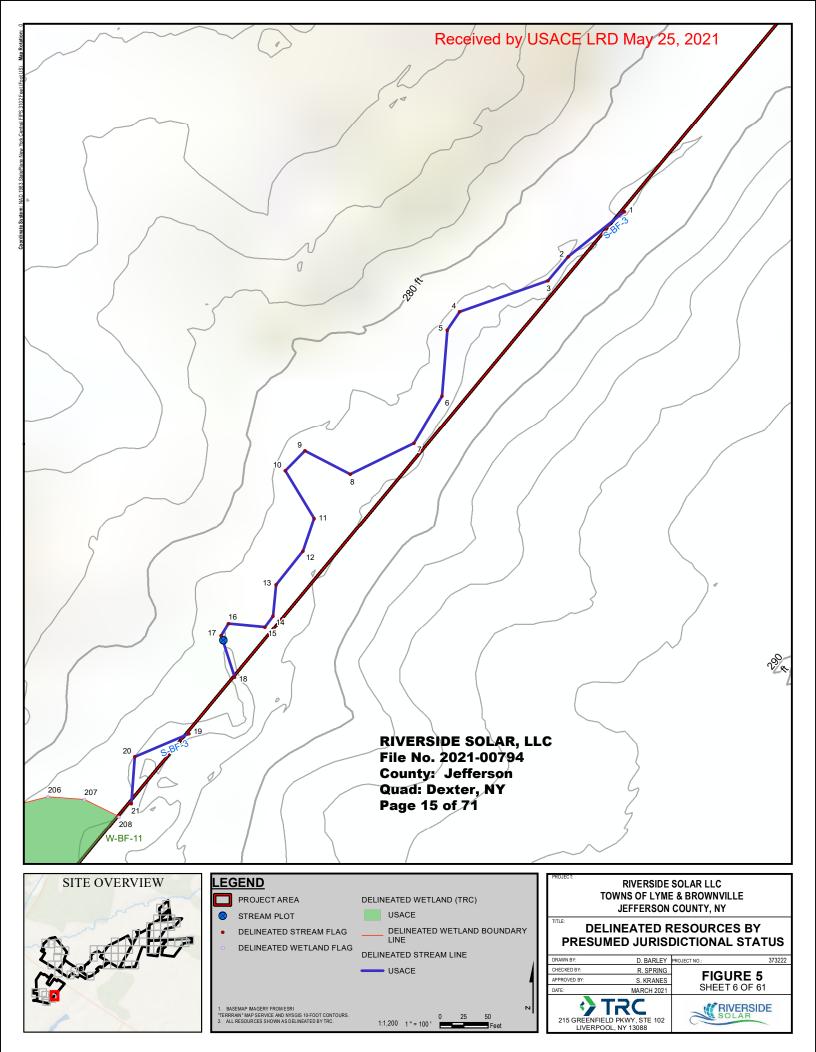


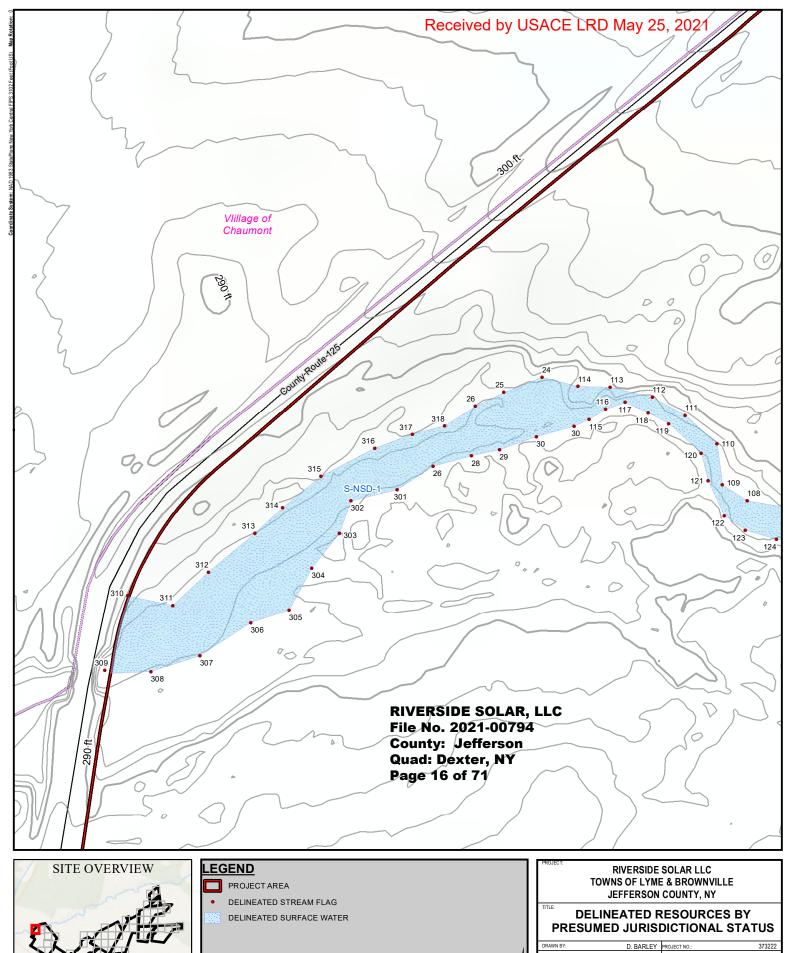
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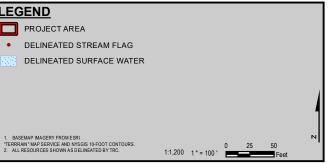




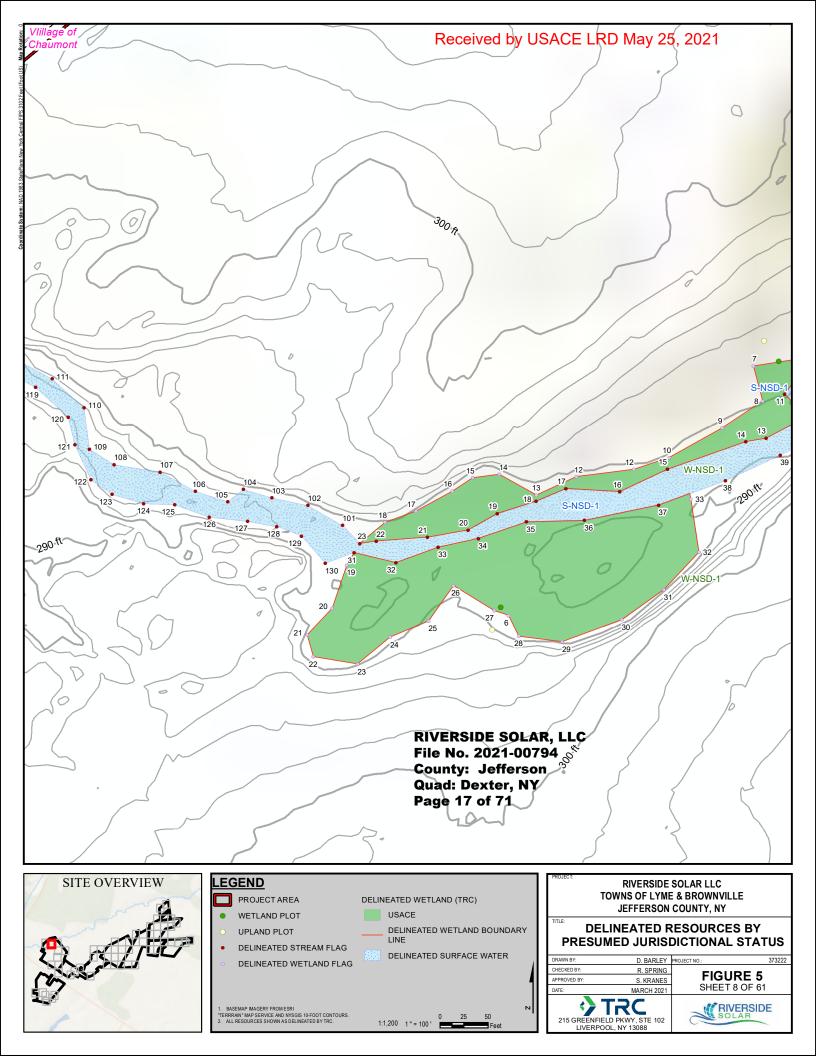


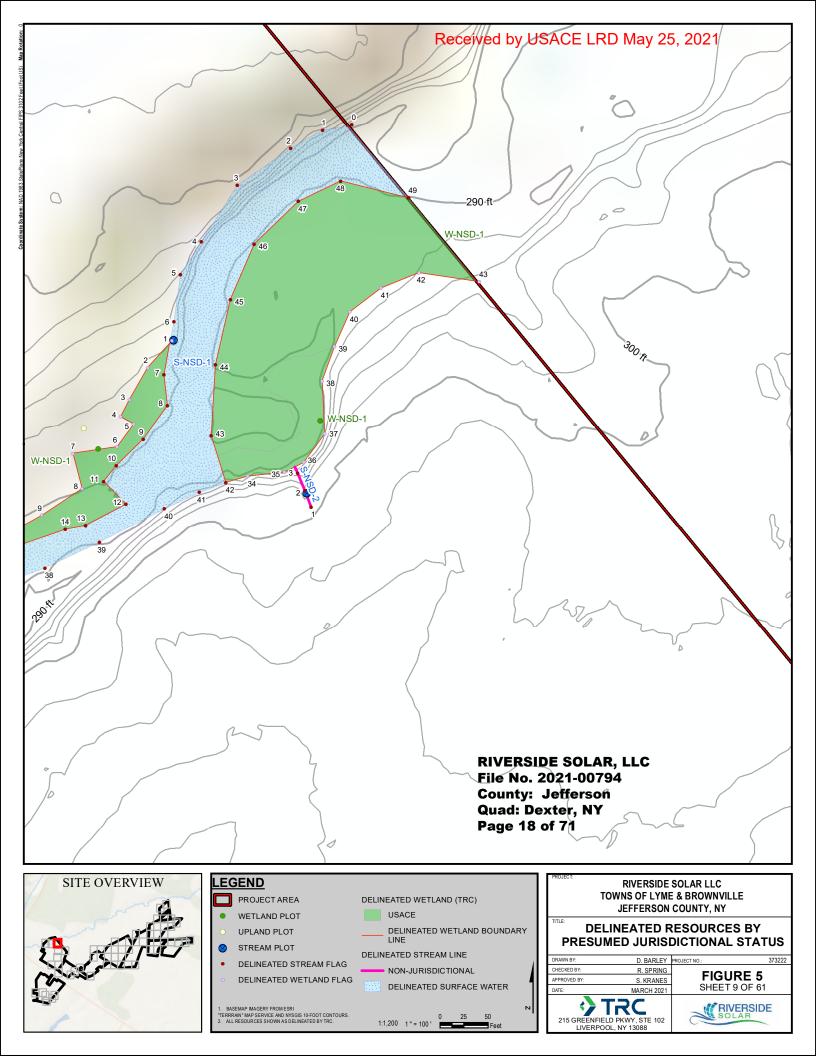


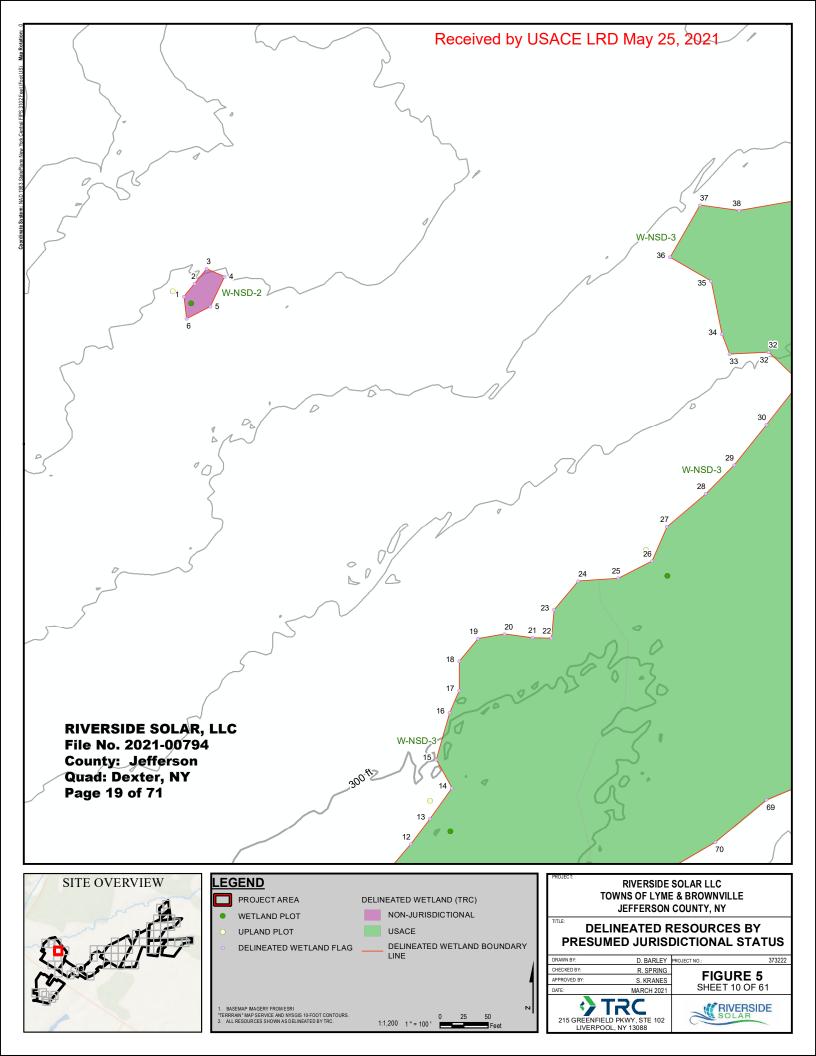


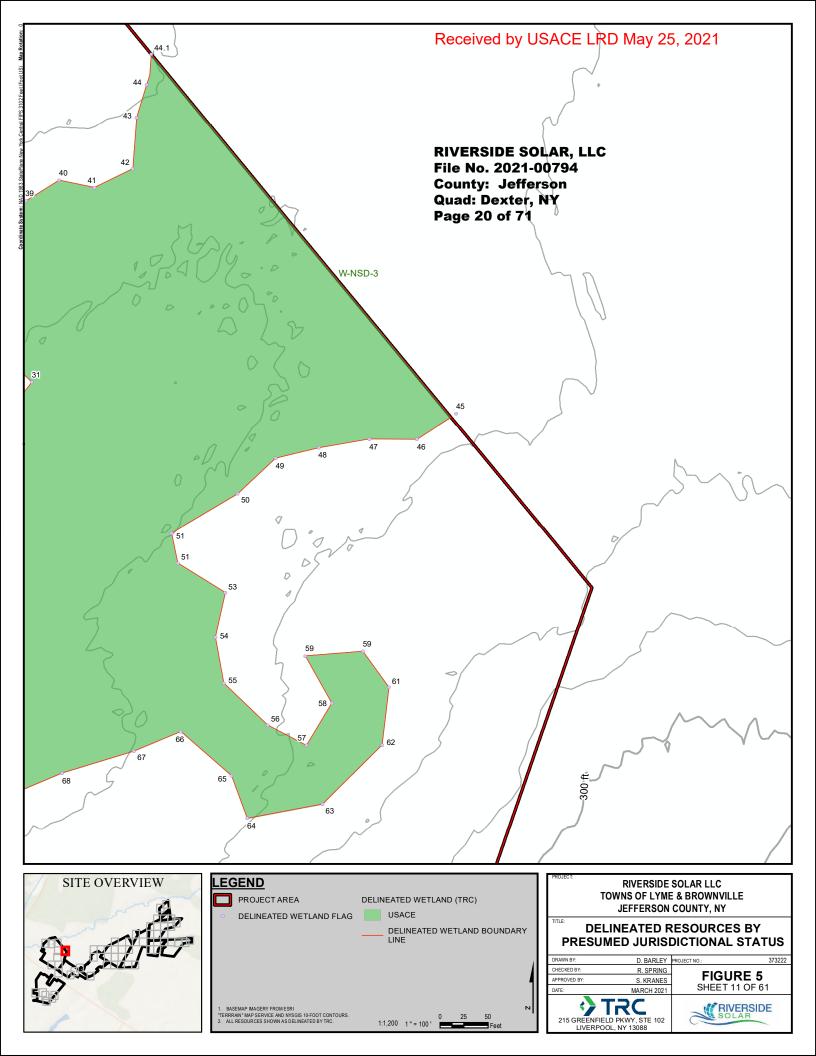


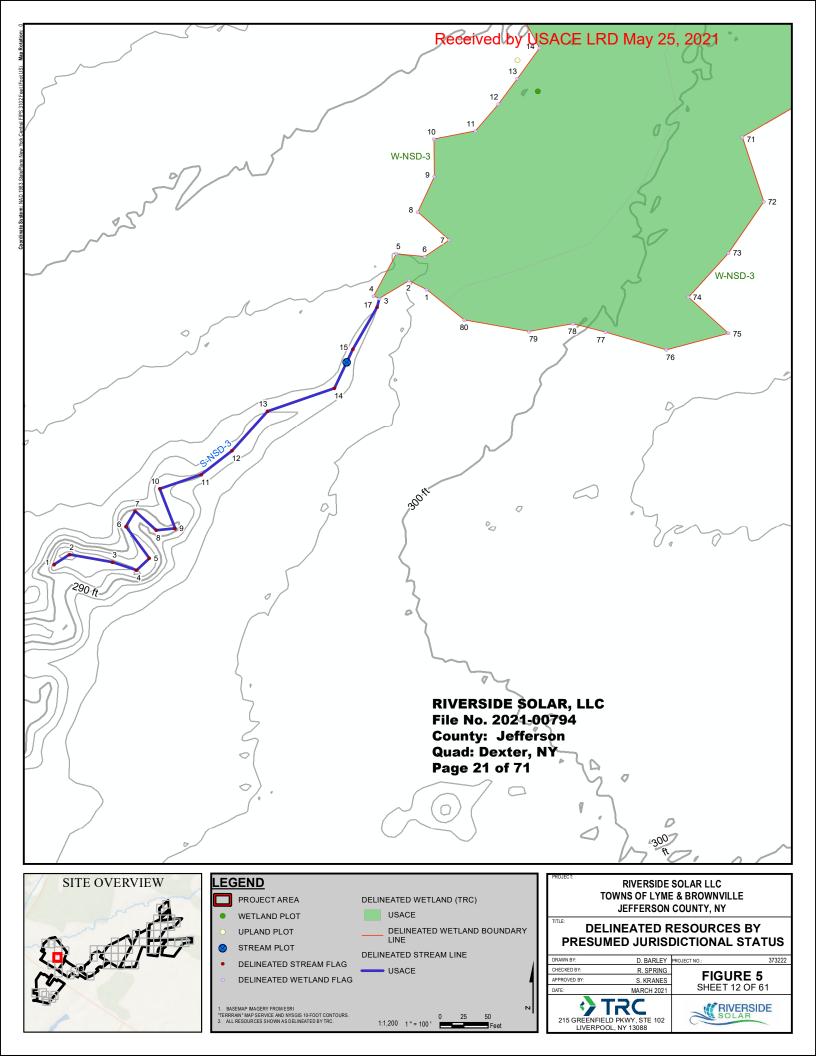
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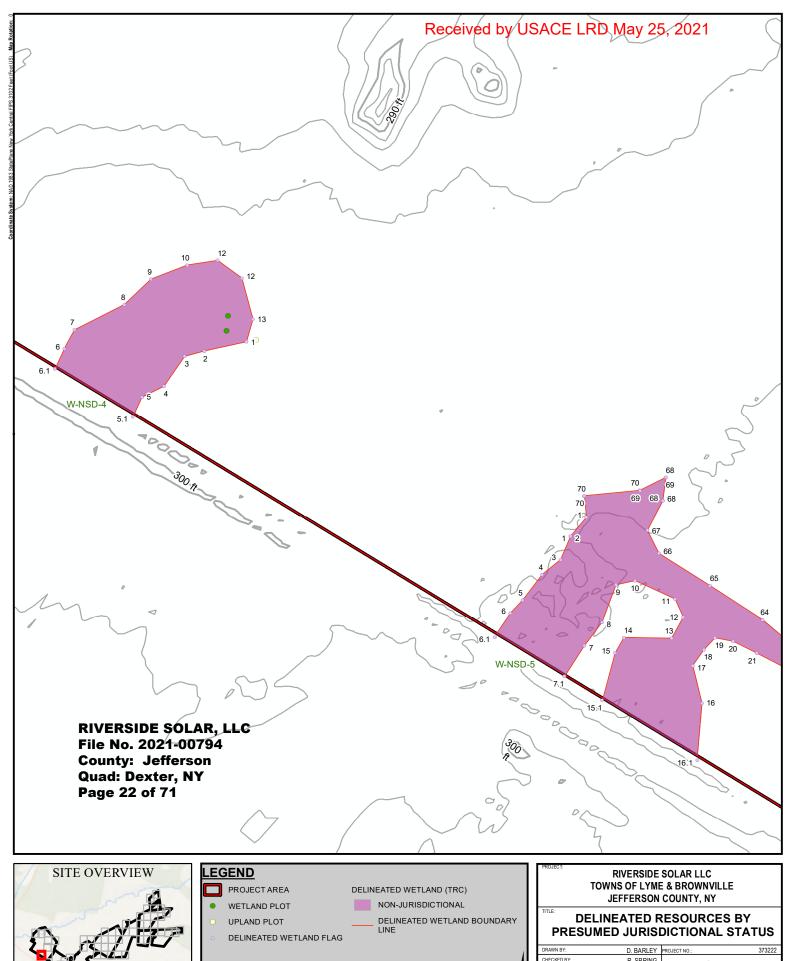


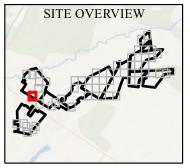


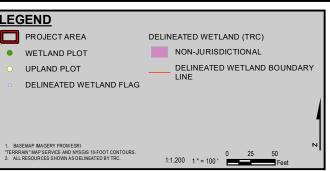




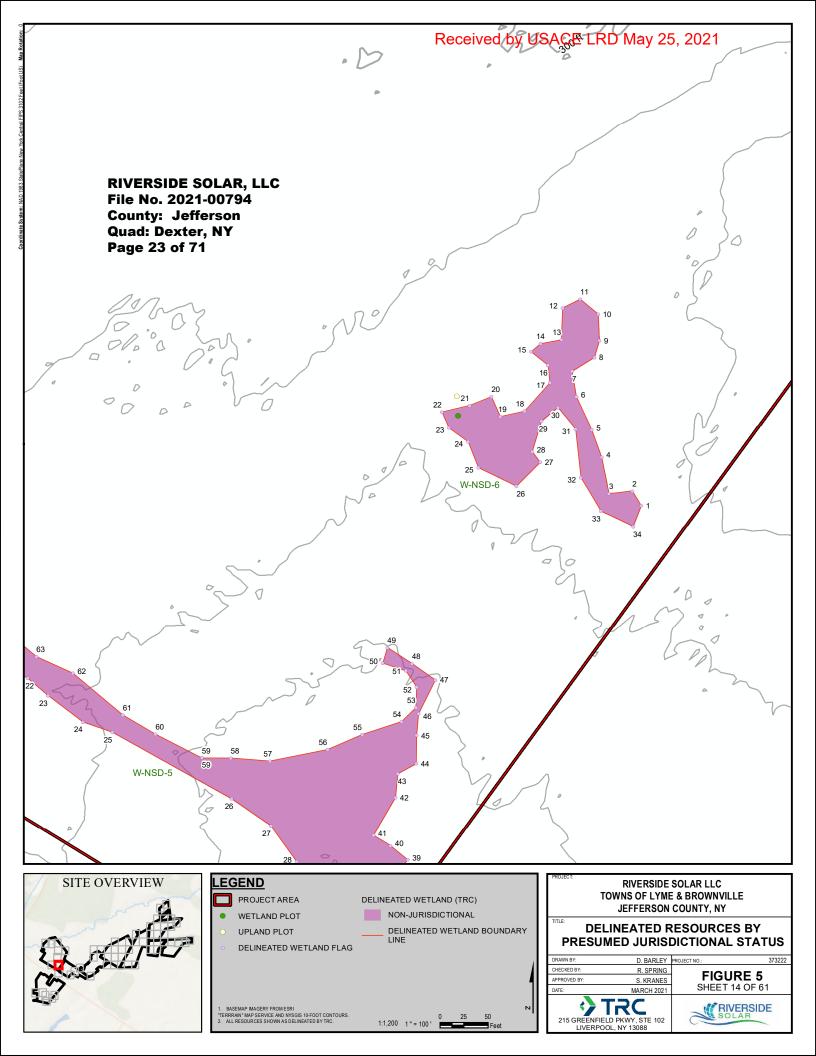


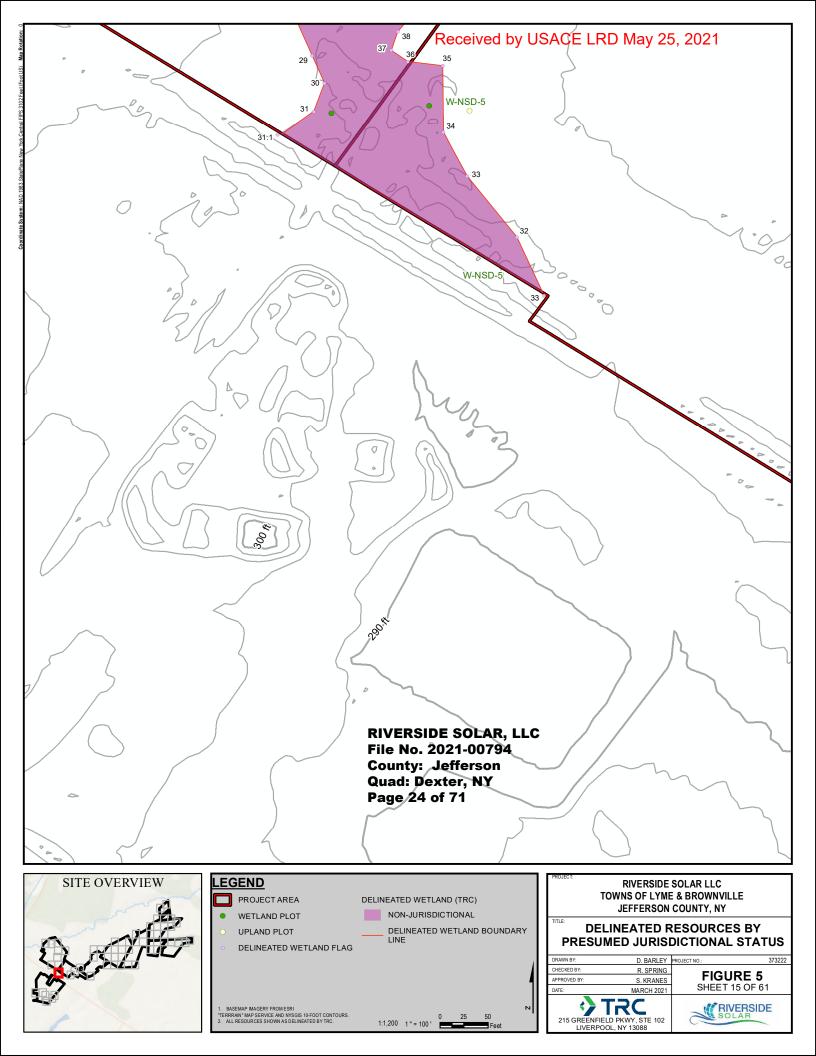


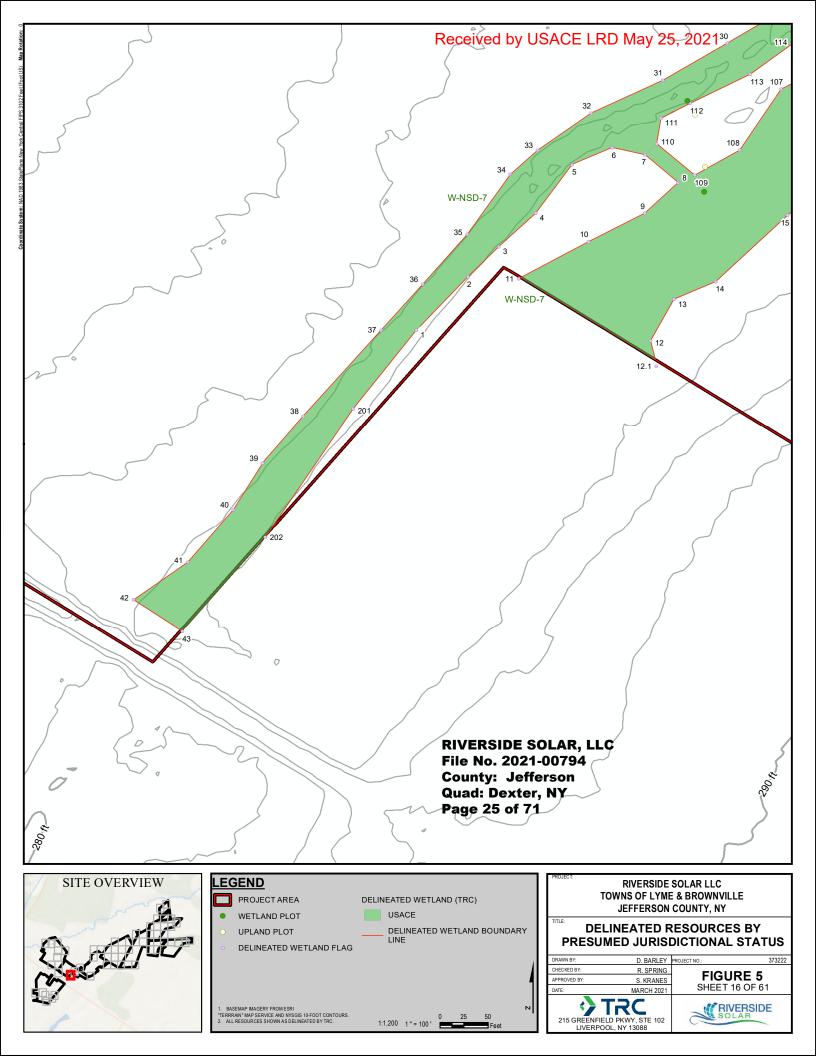


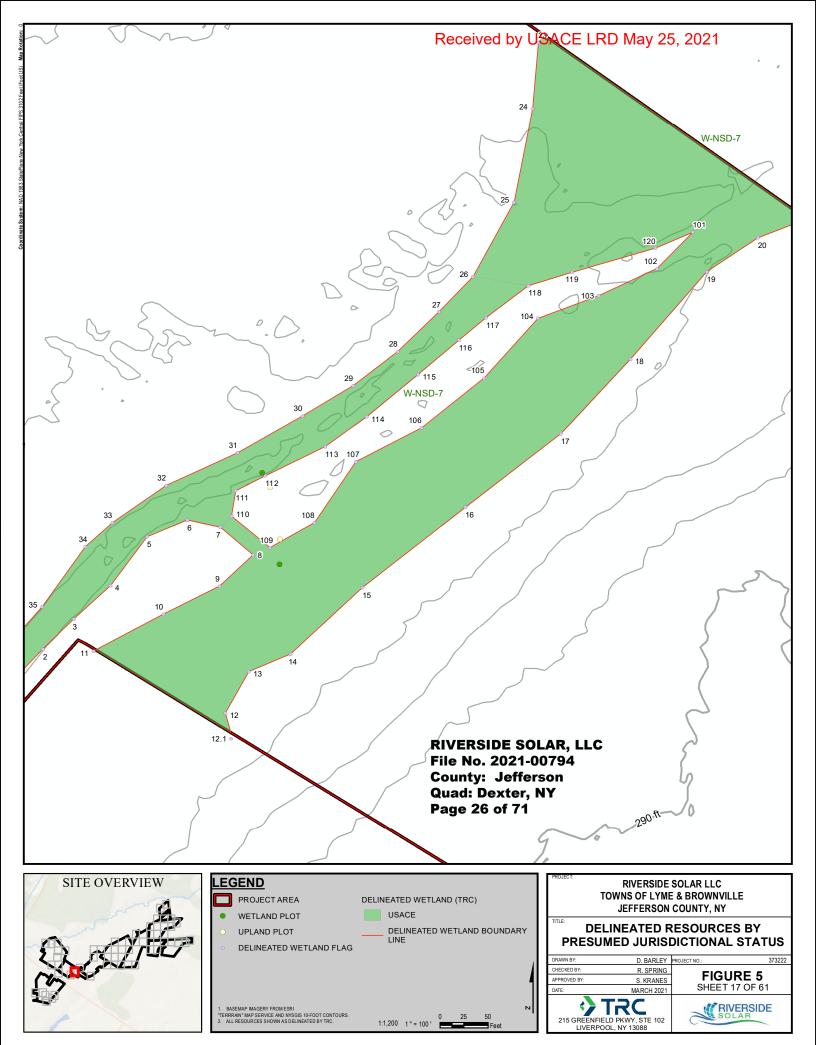


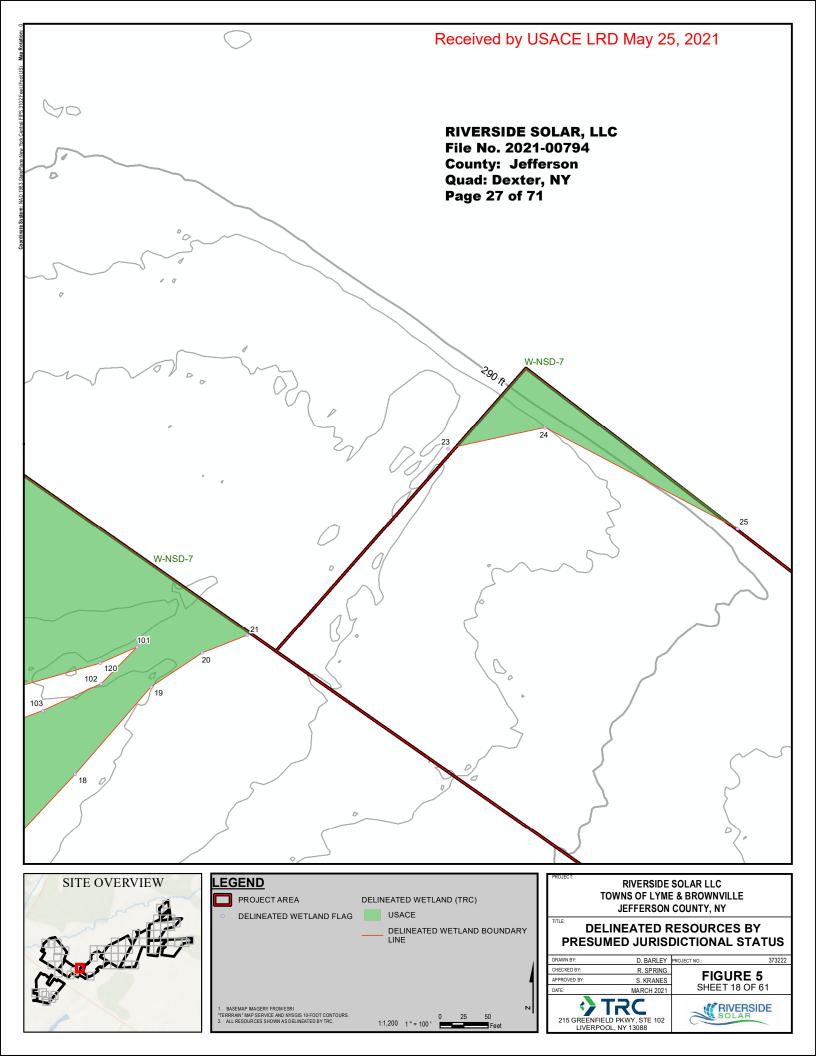
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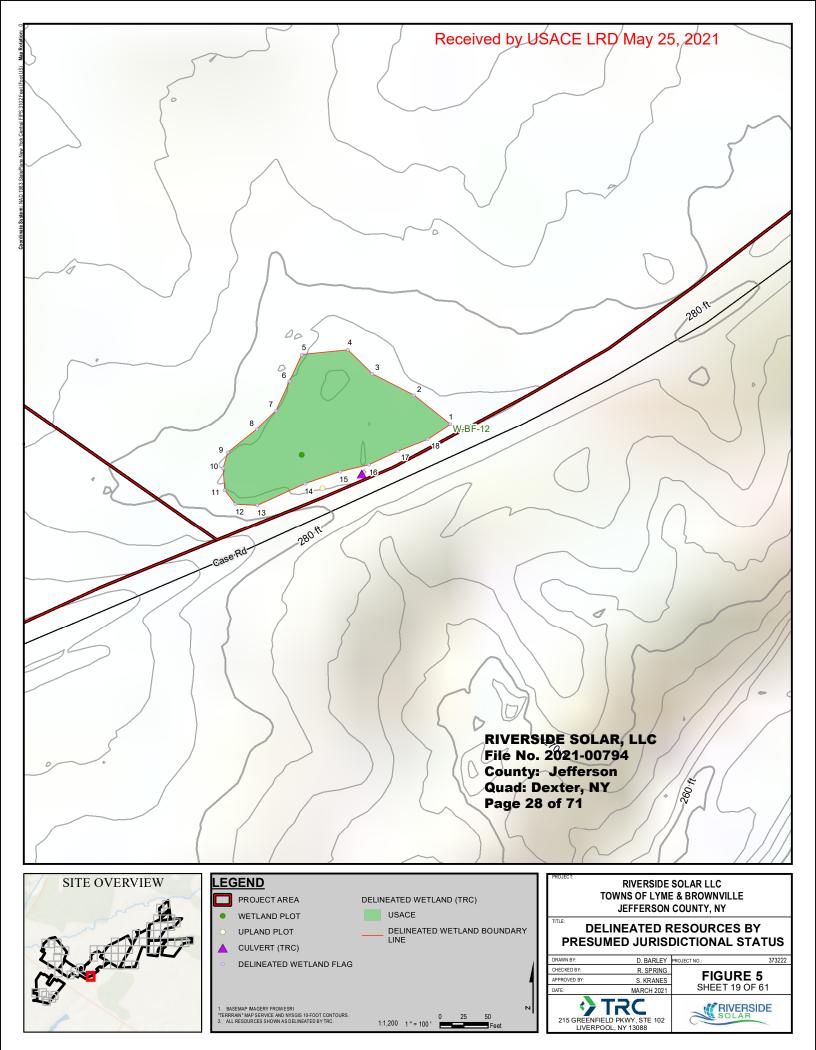


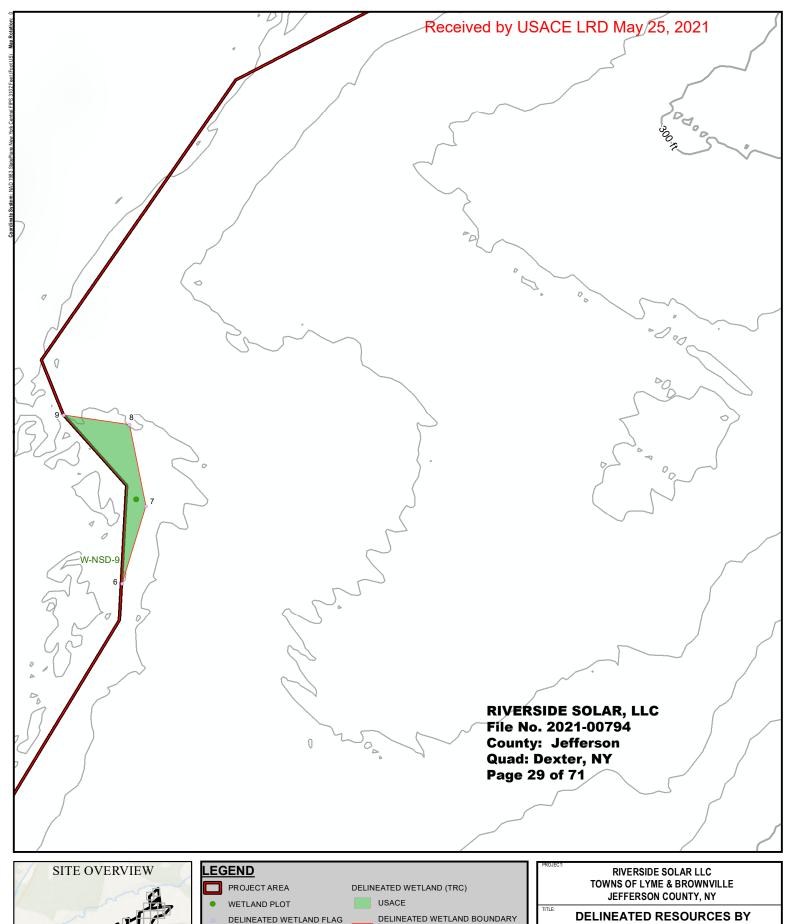




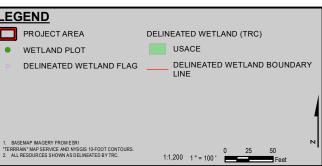






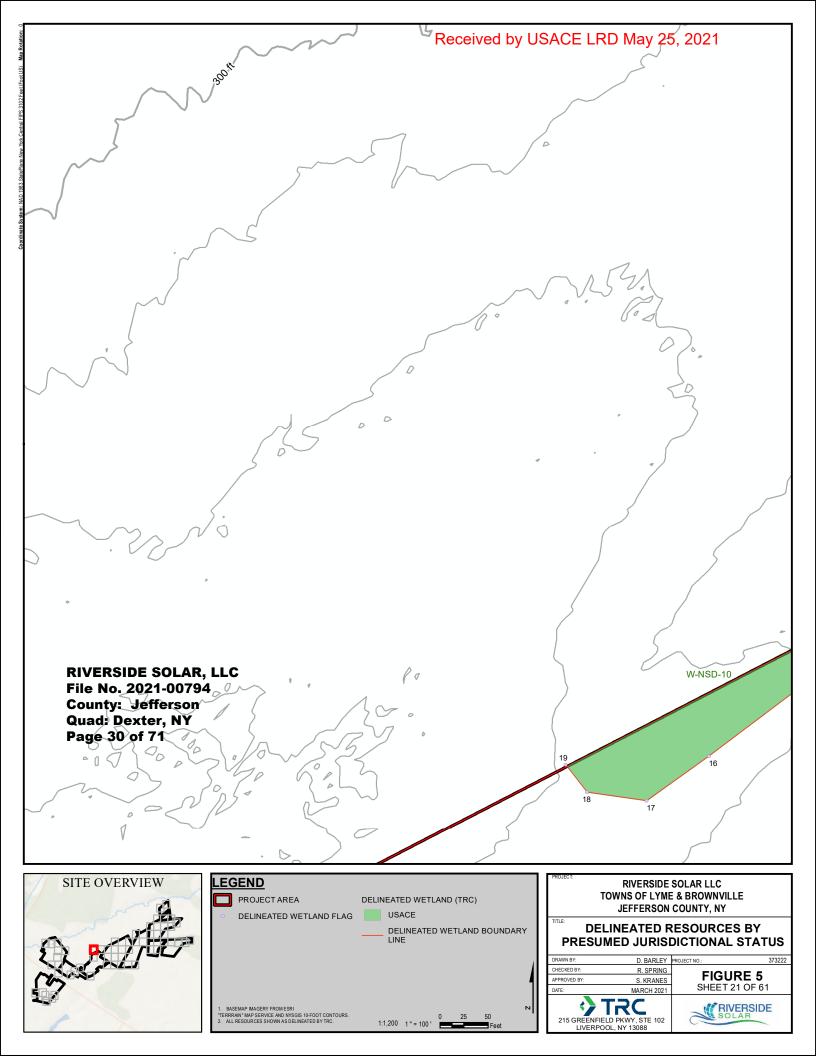


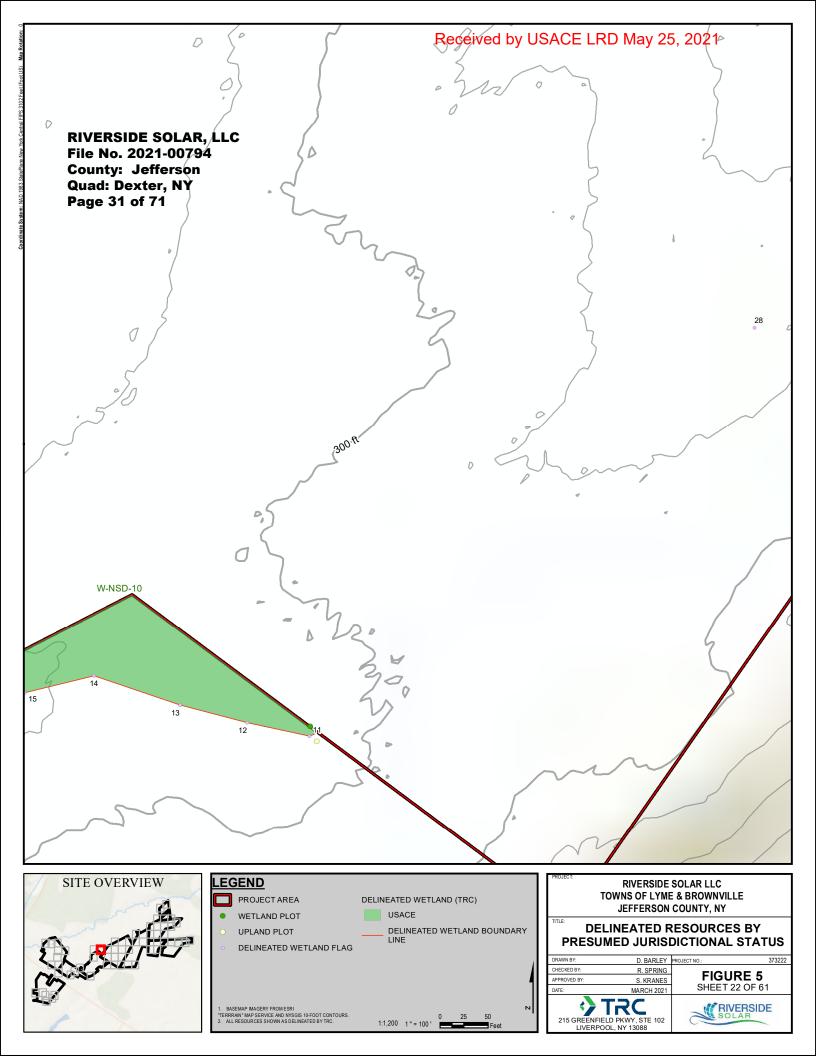


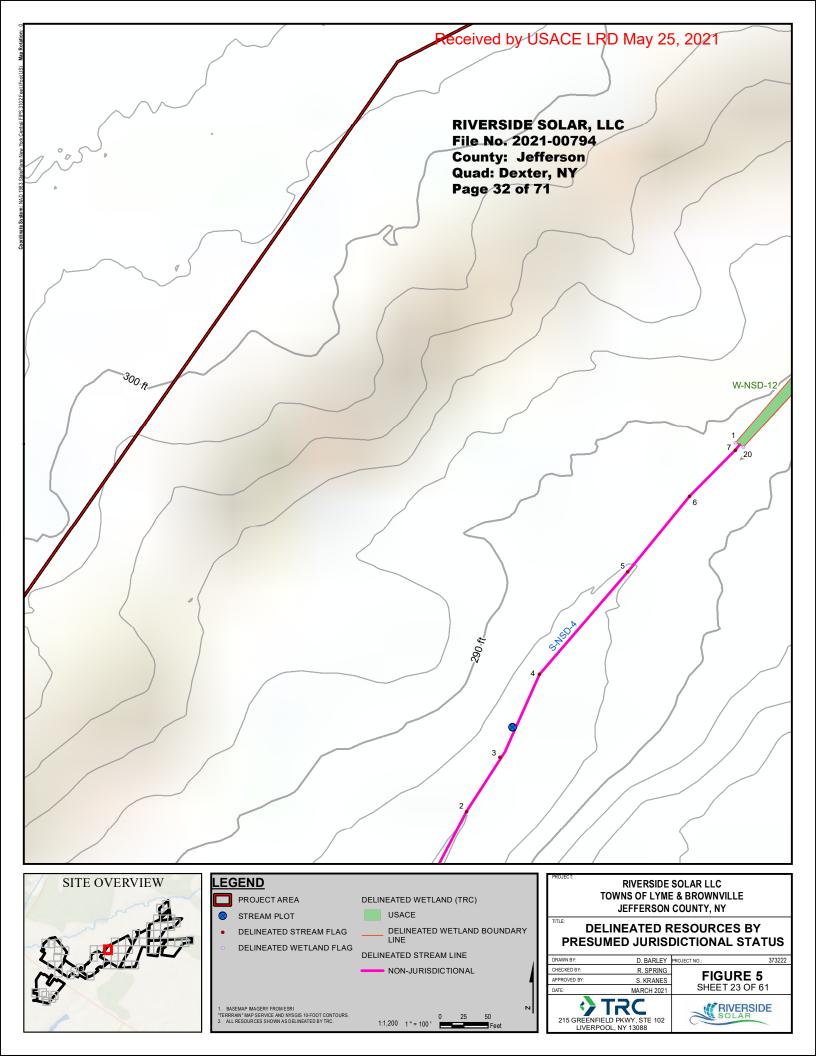


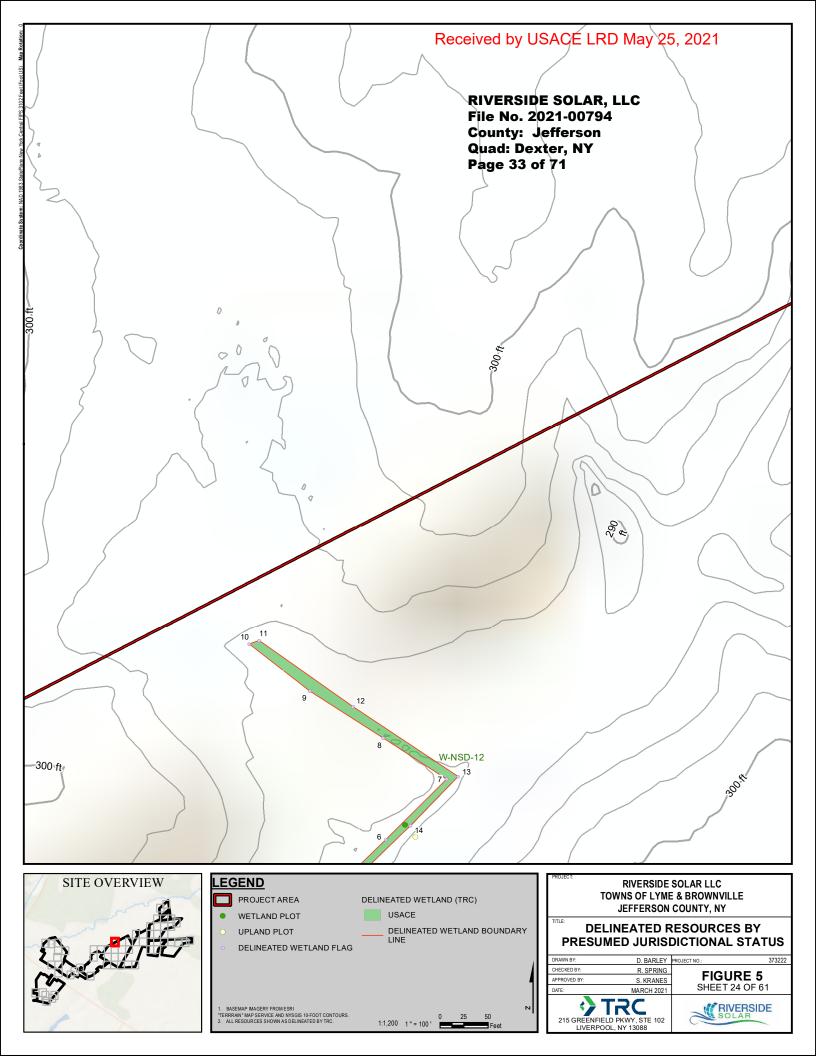
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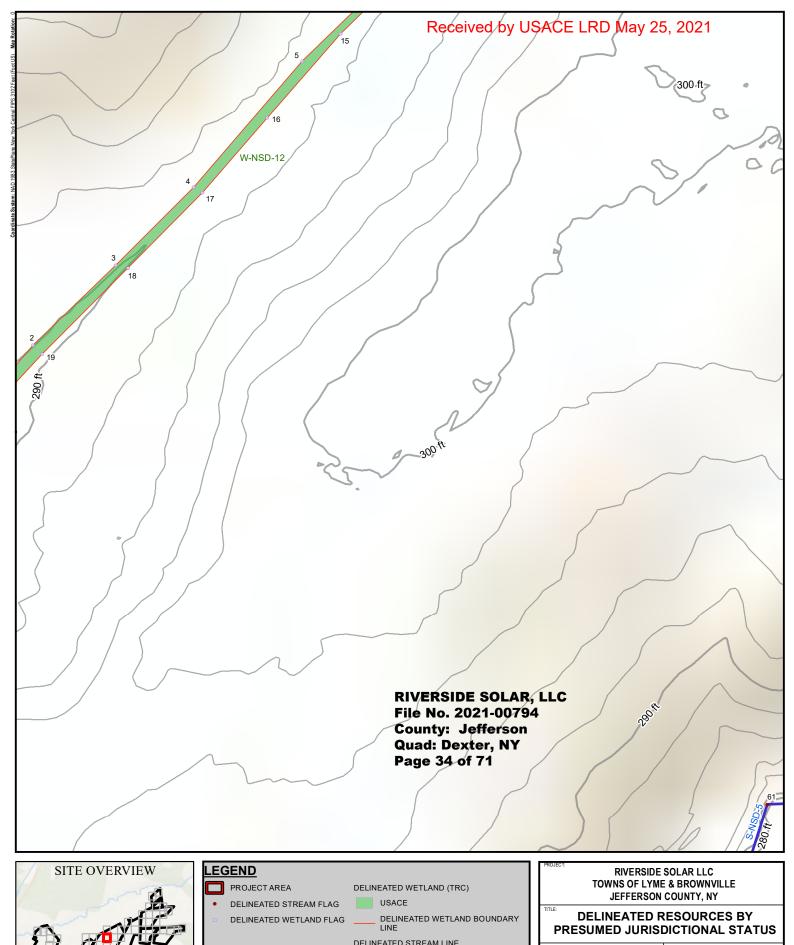
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CHECKED BY:	R. SPRING	FICI	IDE 6
APPROVED BY:	S. KRANES	FIGURE 5	
DATE:	MARCH 2021	SHEET	20 OF 61
215 GREENE	TRC	RISC	VERSIDE

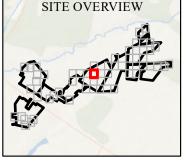


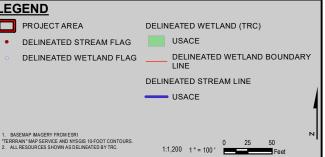




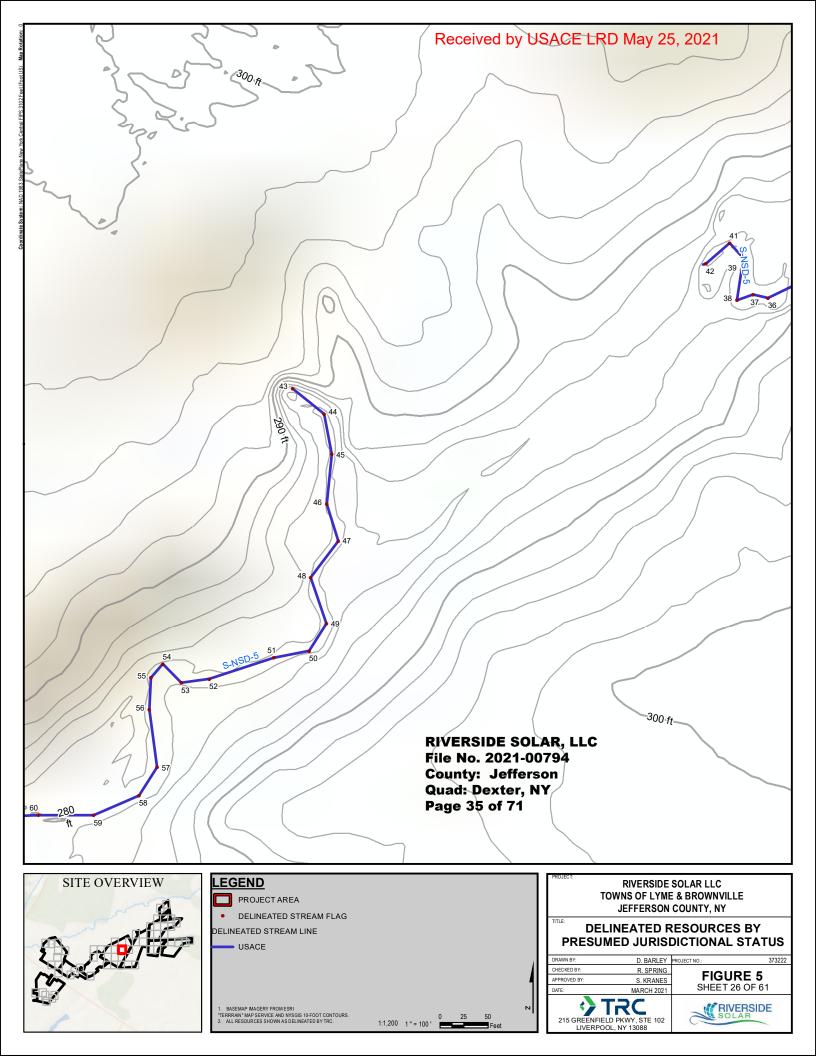


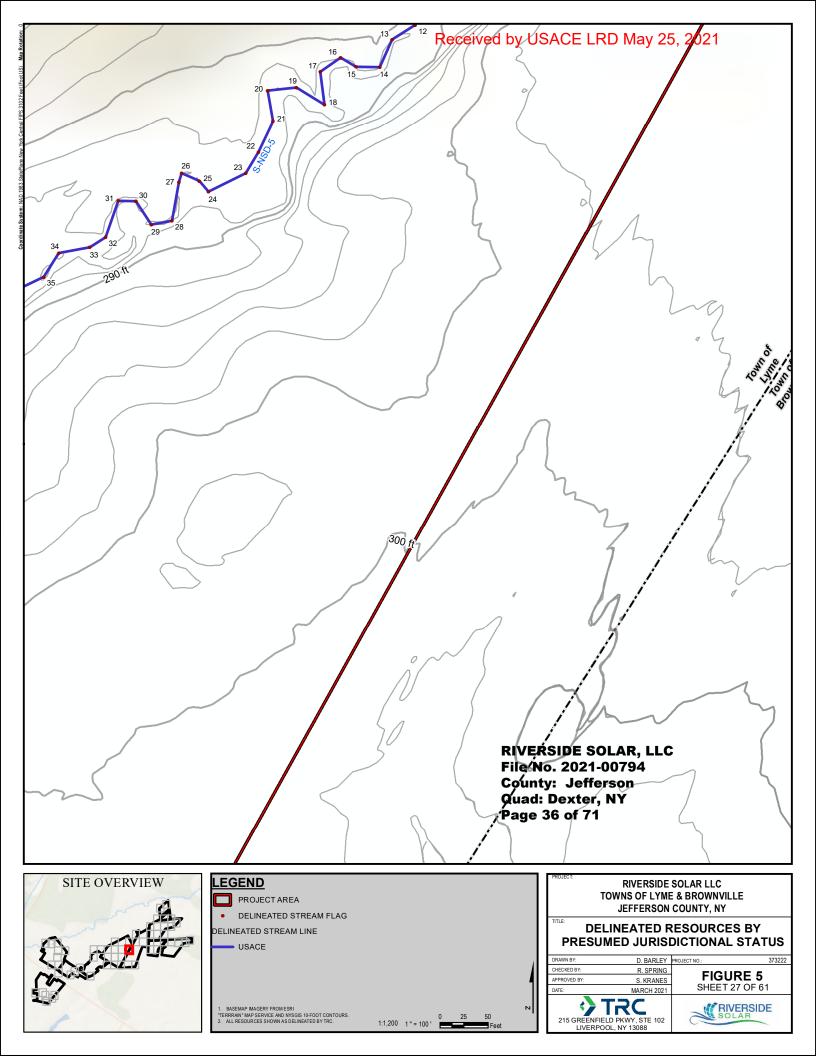


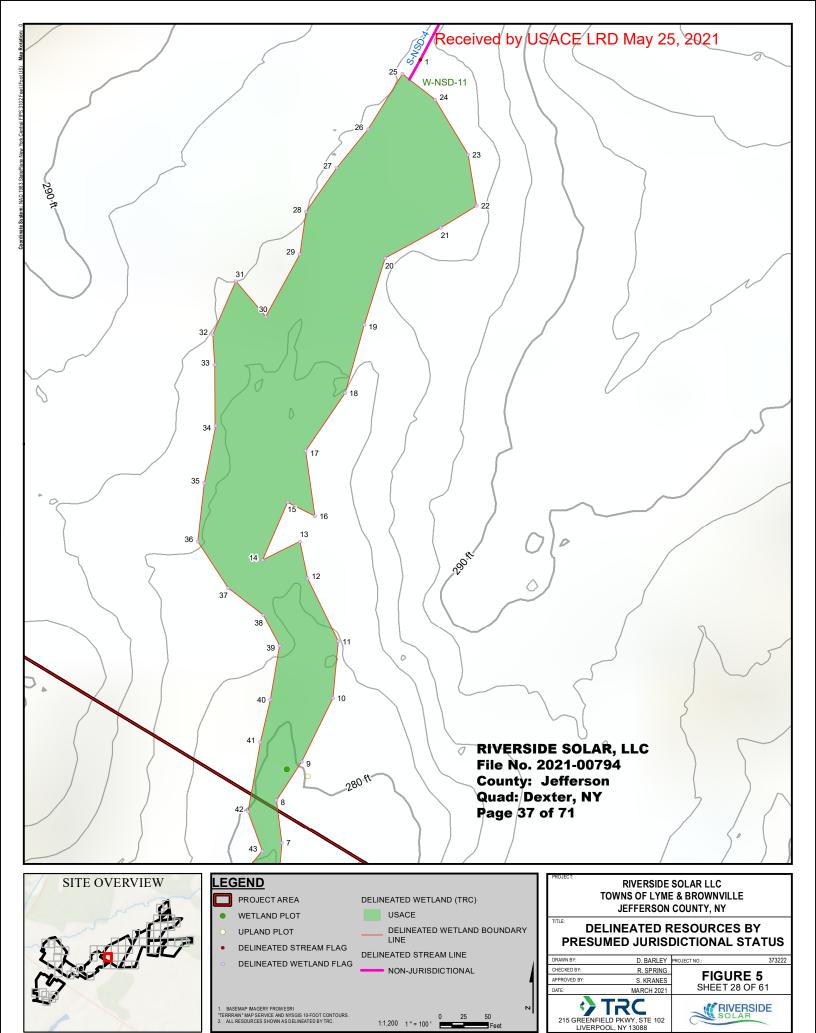


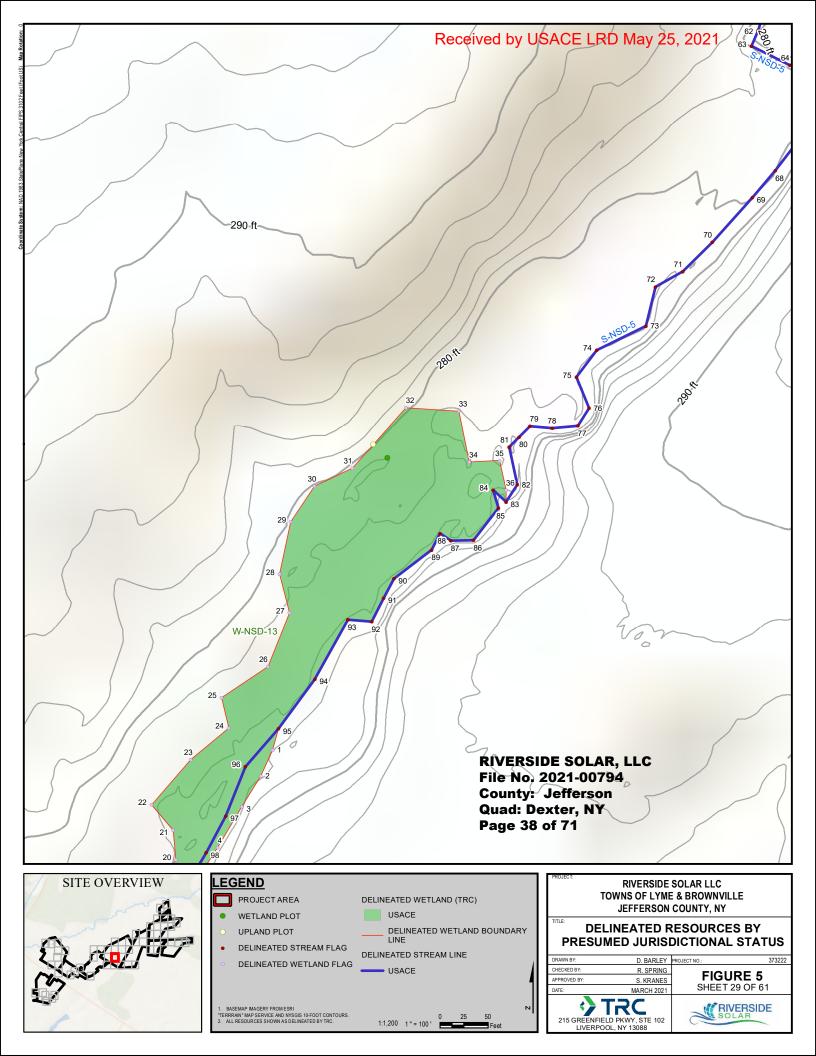


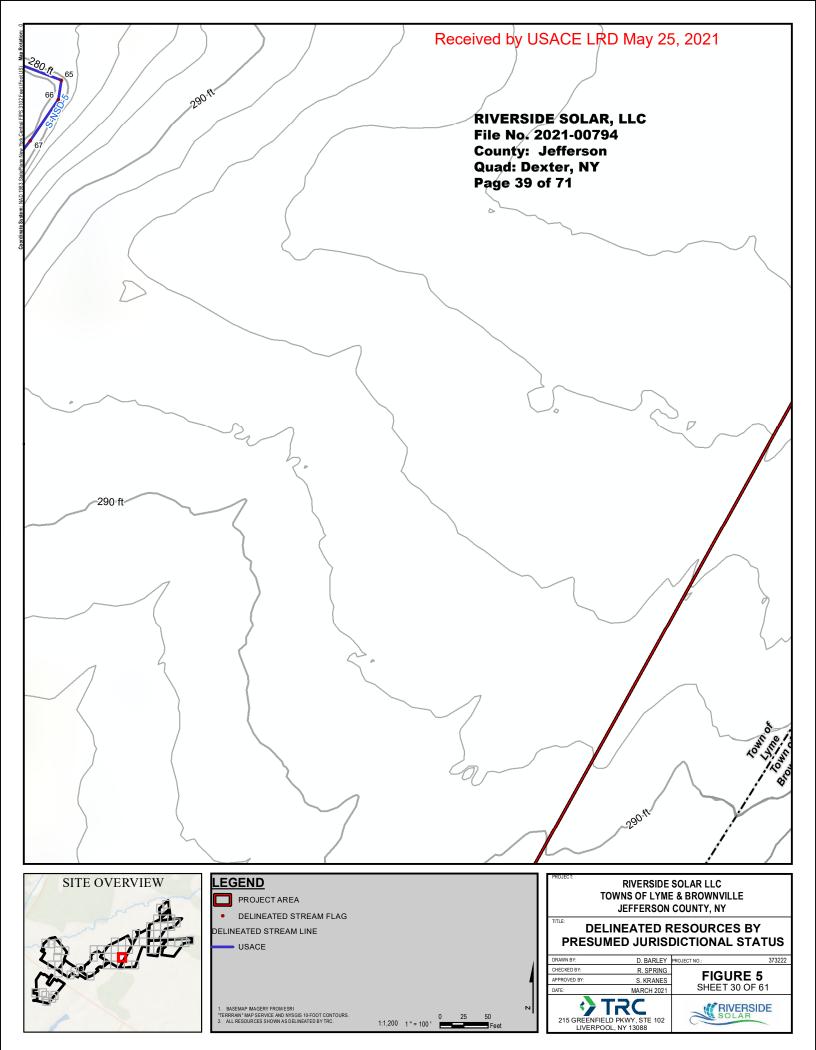
DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
CHECKED BY:	R. SPRING	FIGURE 5	
APPROVED BY:	S. KRANES	FIGURE 5	
DATE:	MARCH 2021	SHEET 25 OF 61	
	PKWY, STE 102 L, NY 13088	RIVERSIDE	

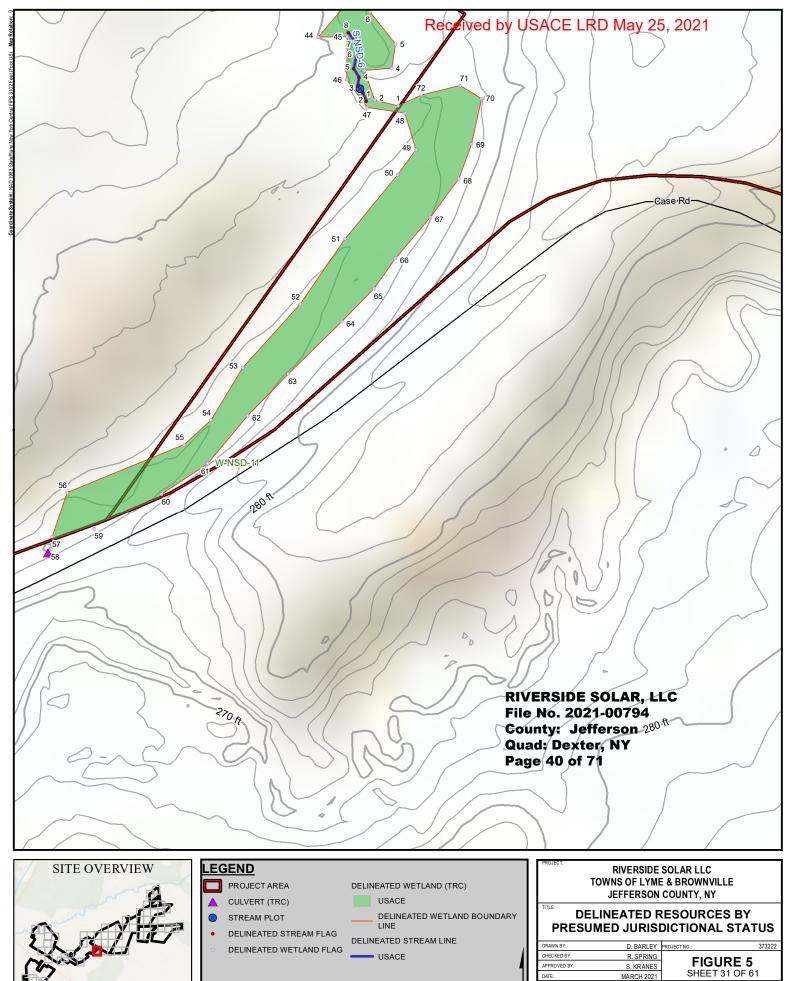


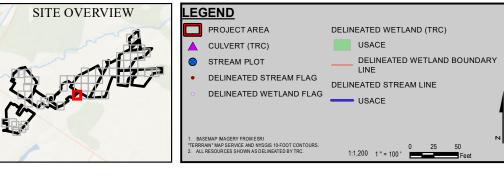






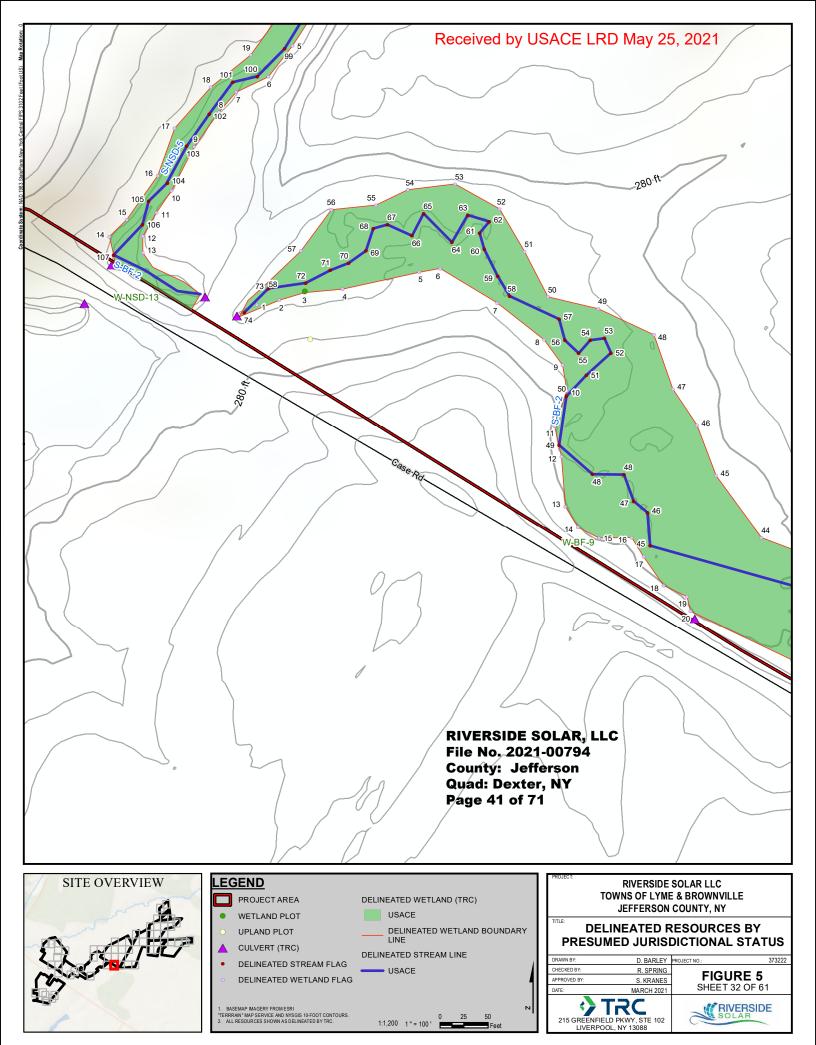


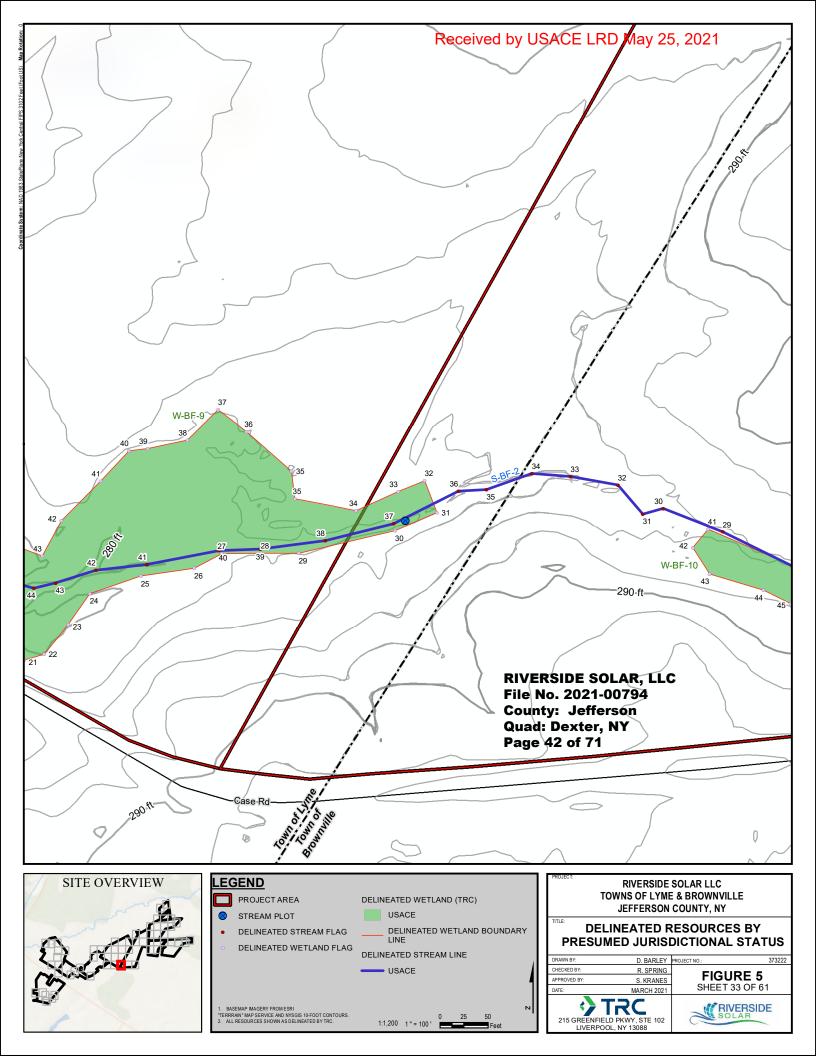


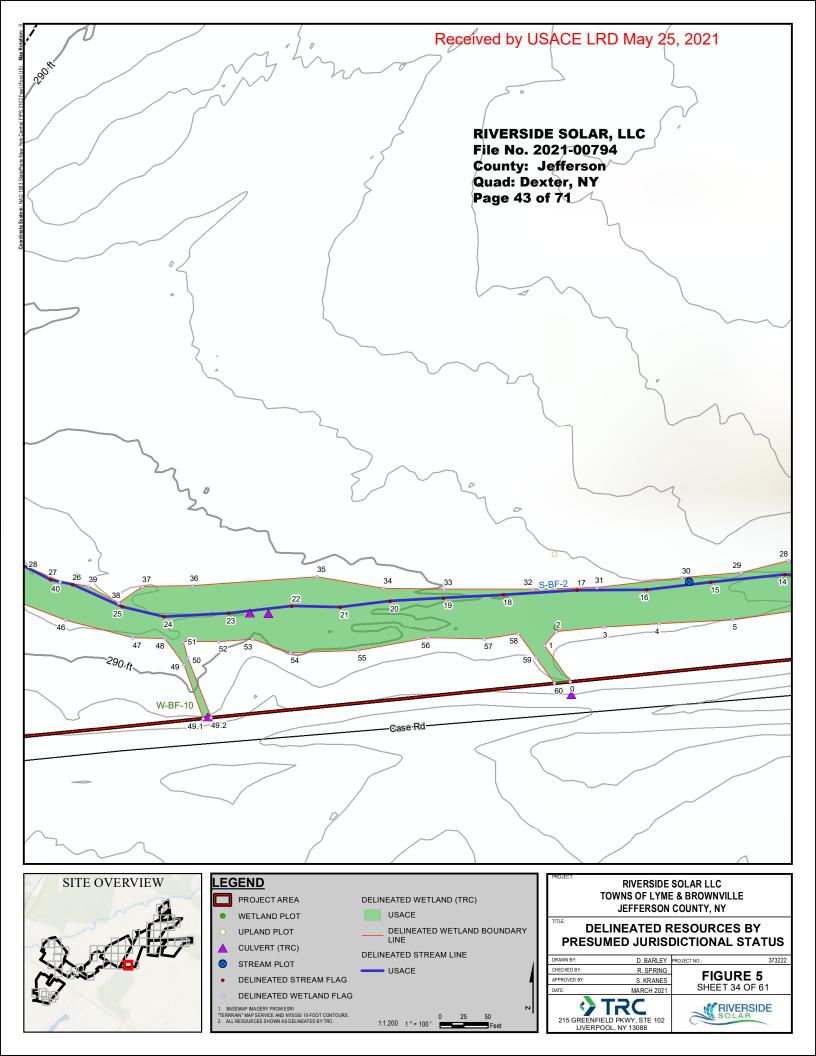


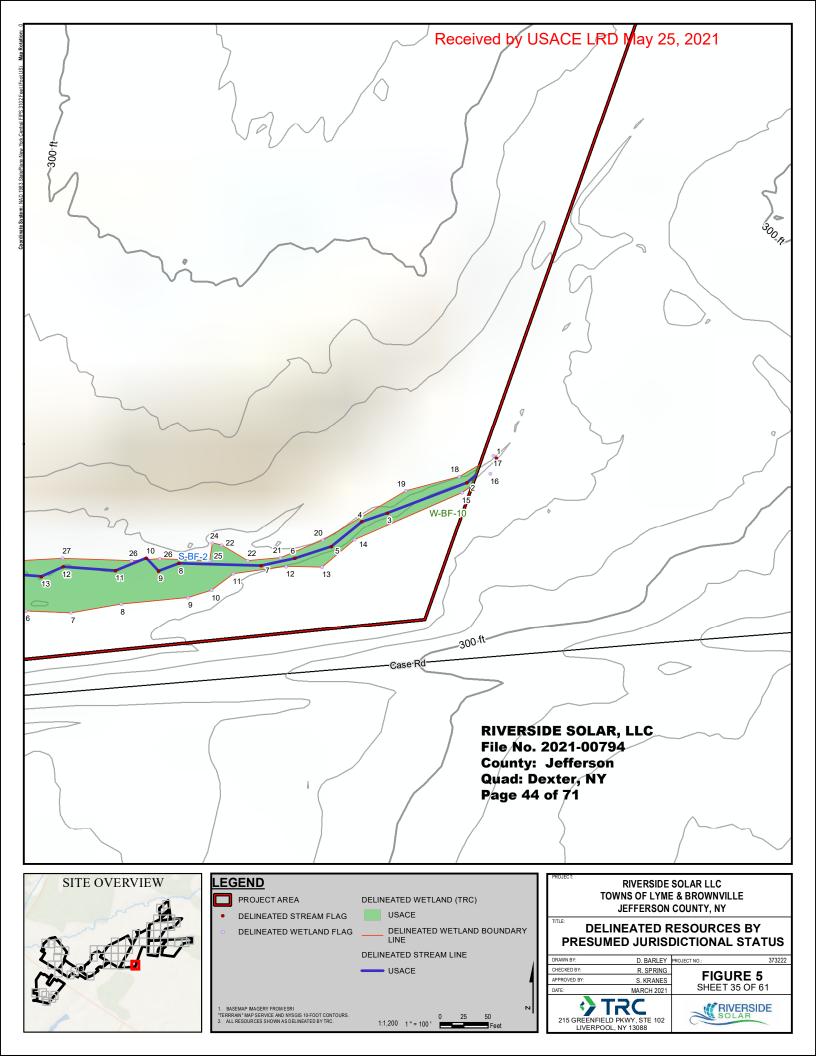


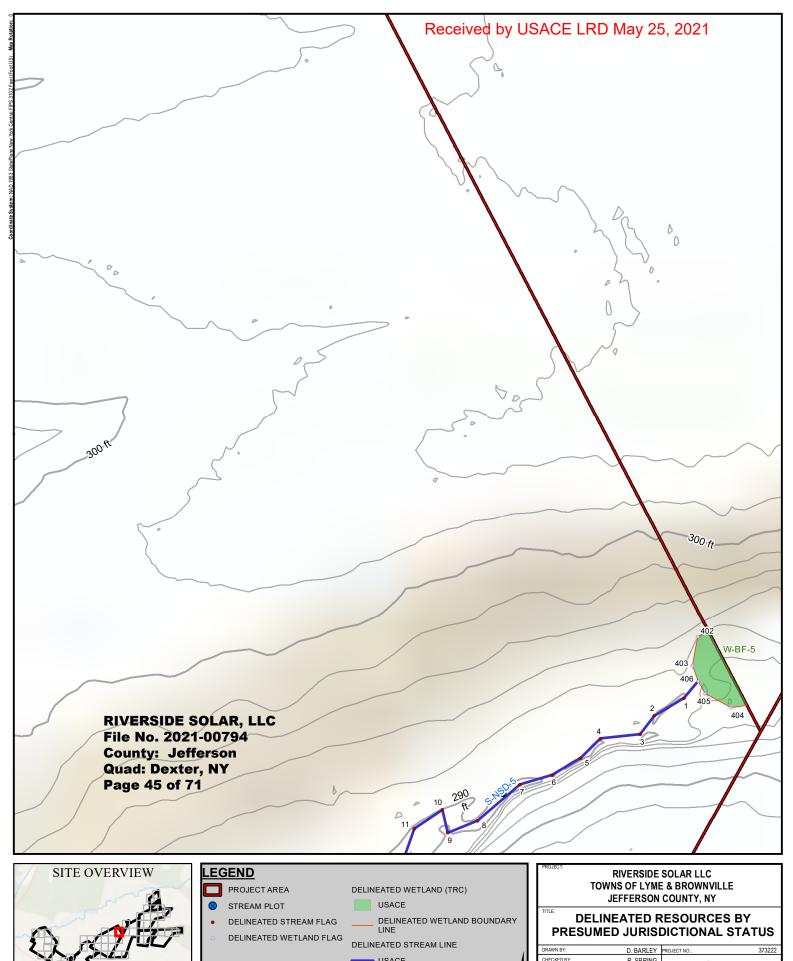




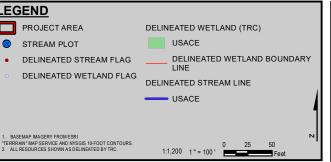




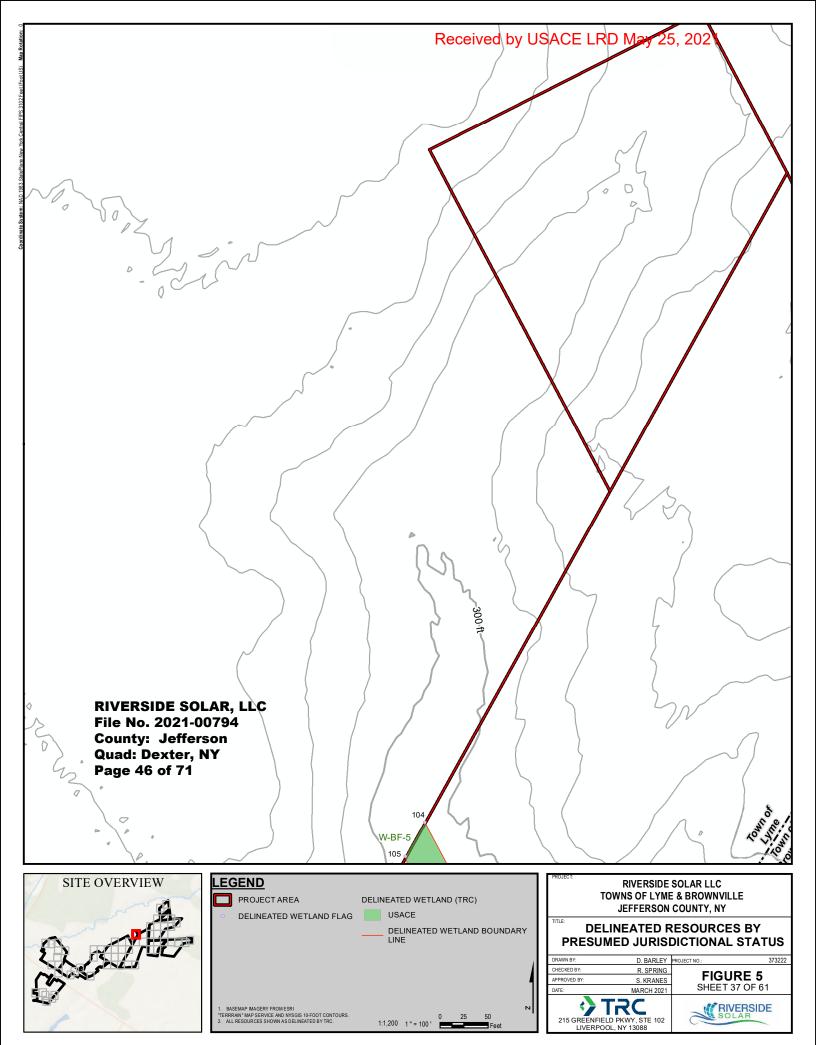


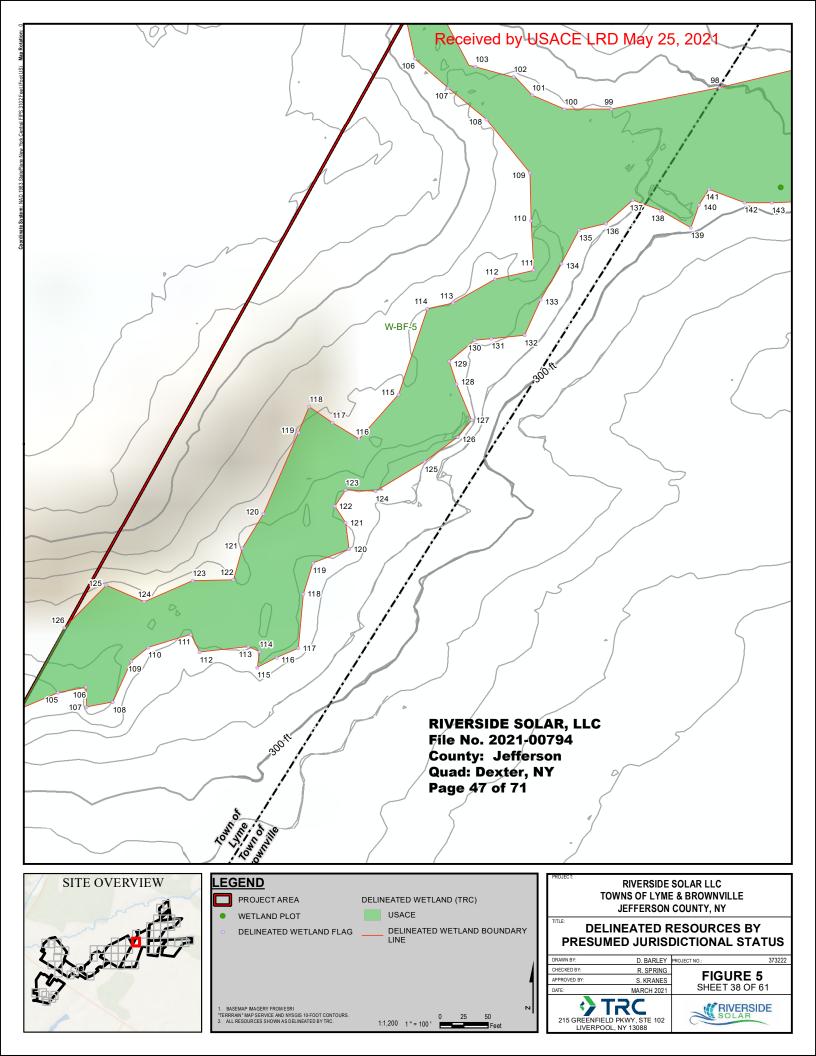


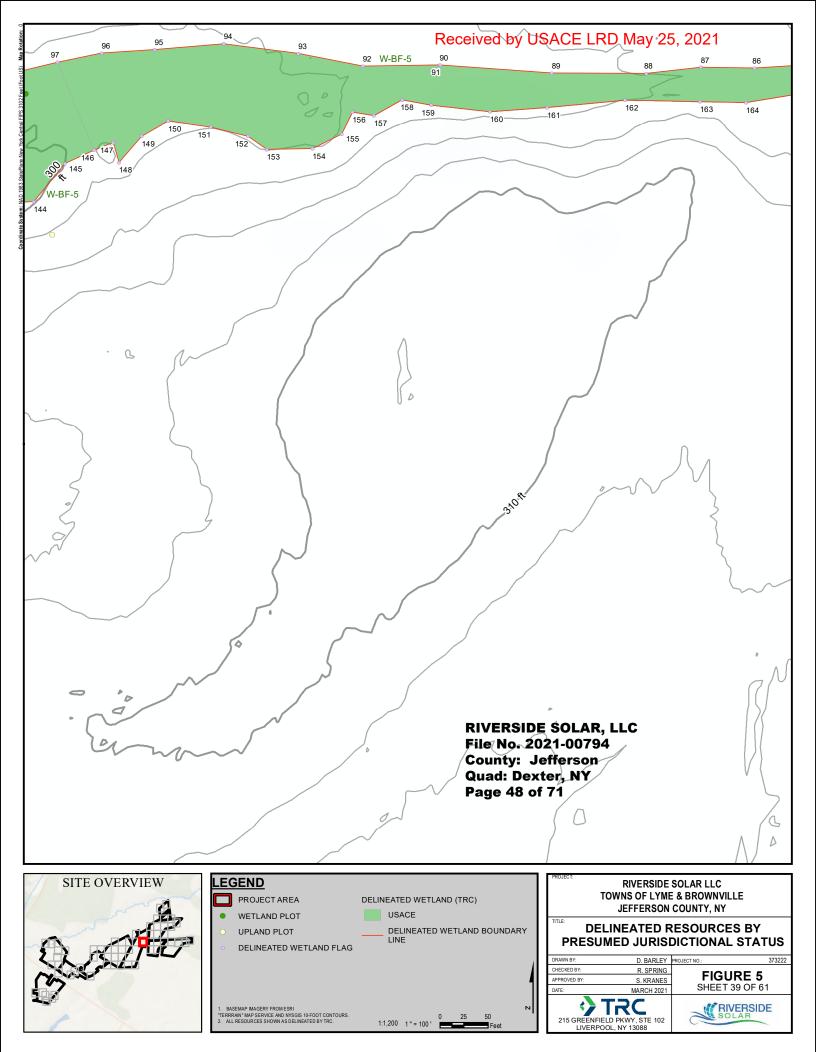


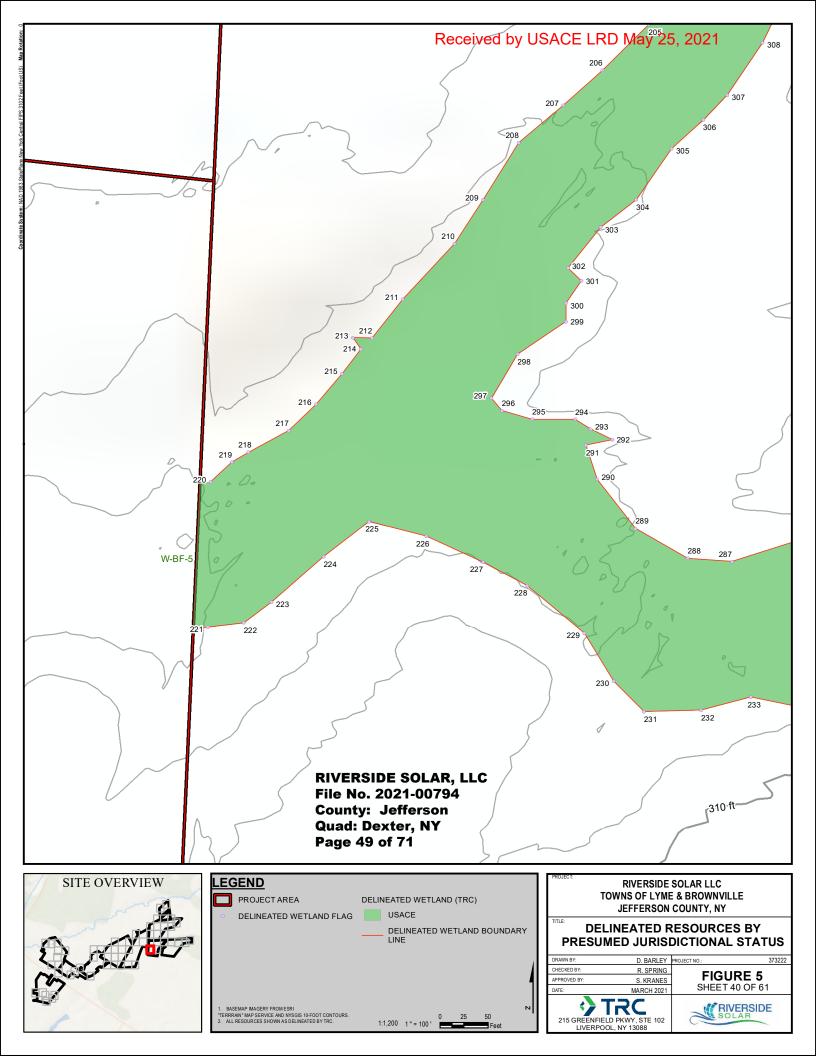


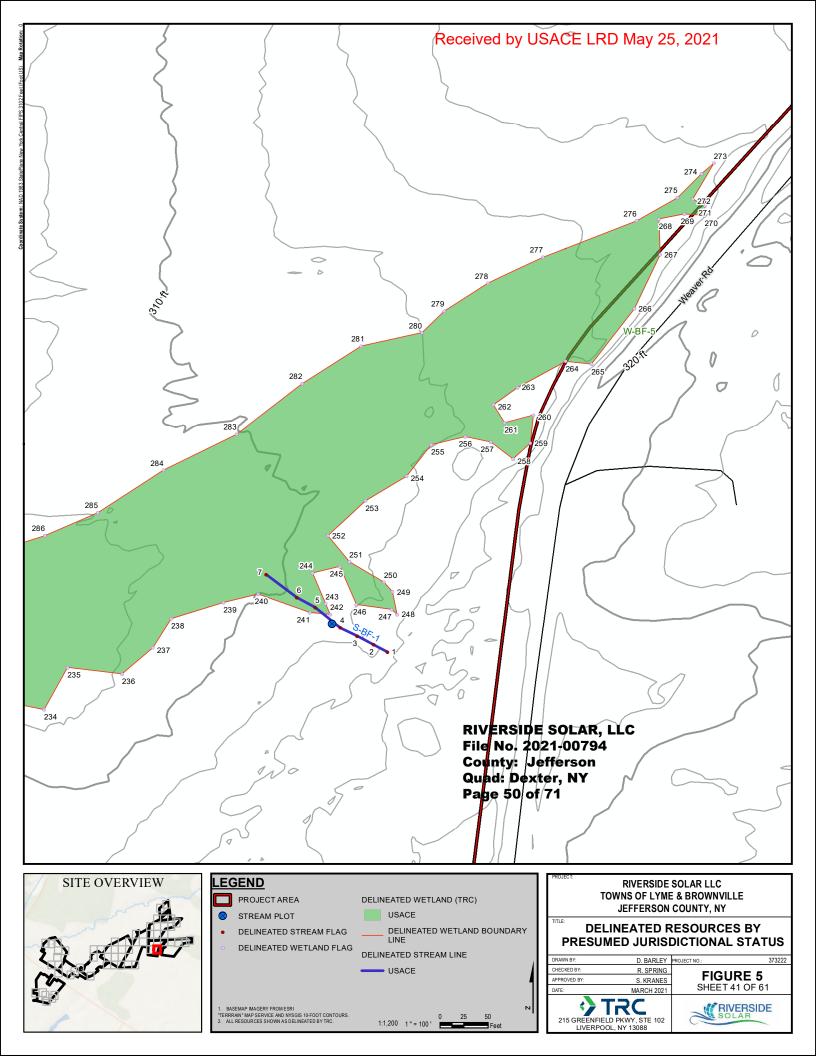
DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
CHECKED BY:	R. SPRING	FIGUE	
APPROVED BY:	S. KRANES	FIGUR	
DATE:	MARCH 2021	SHEET 36	OF 61
	PKWY, STE 102 L, NY 13088	RIVE	RSIDE

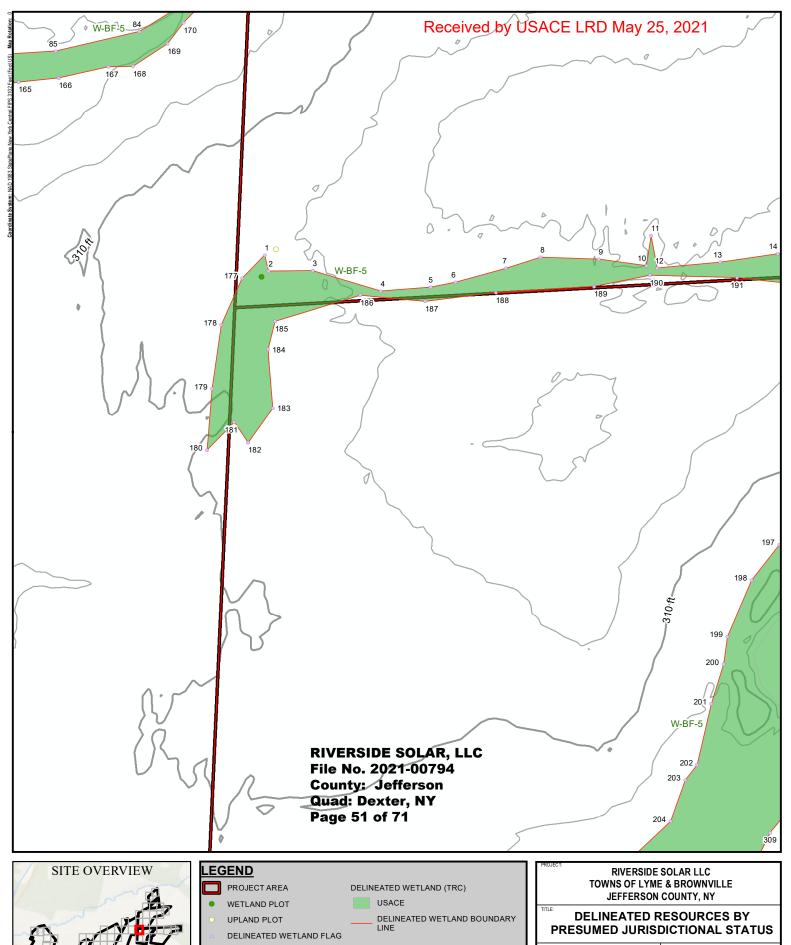


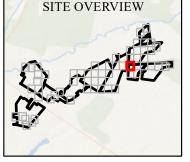


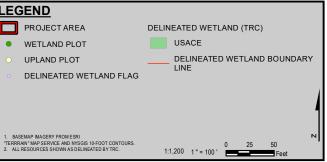




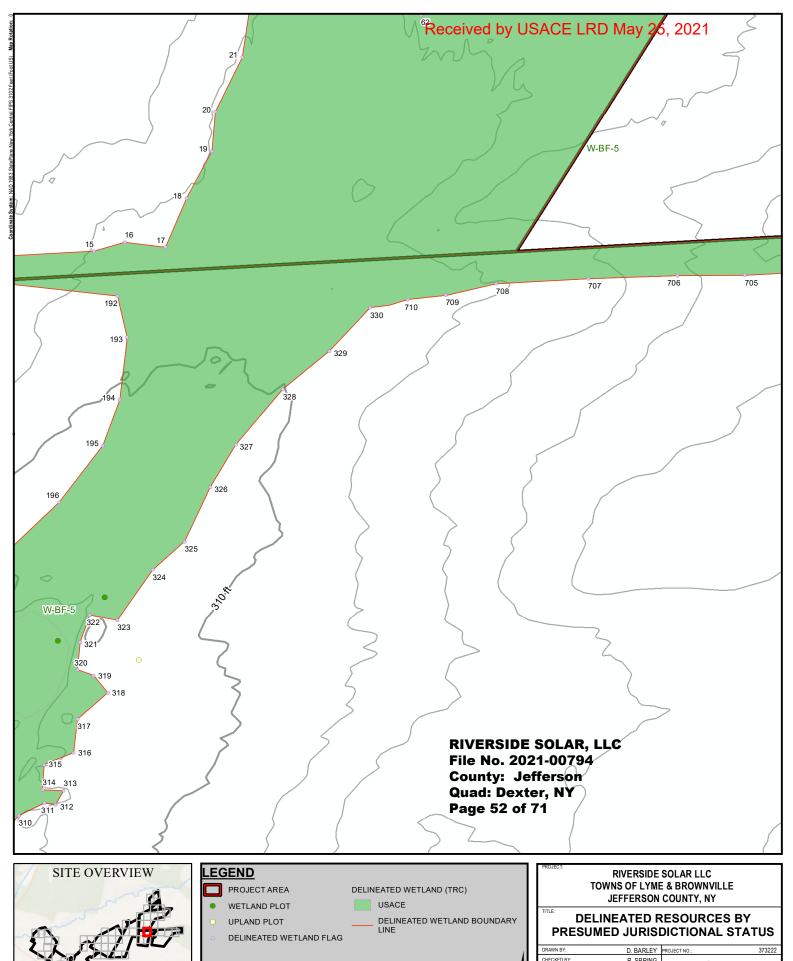




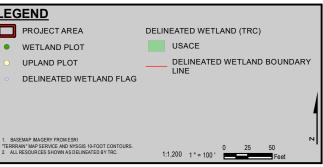




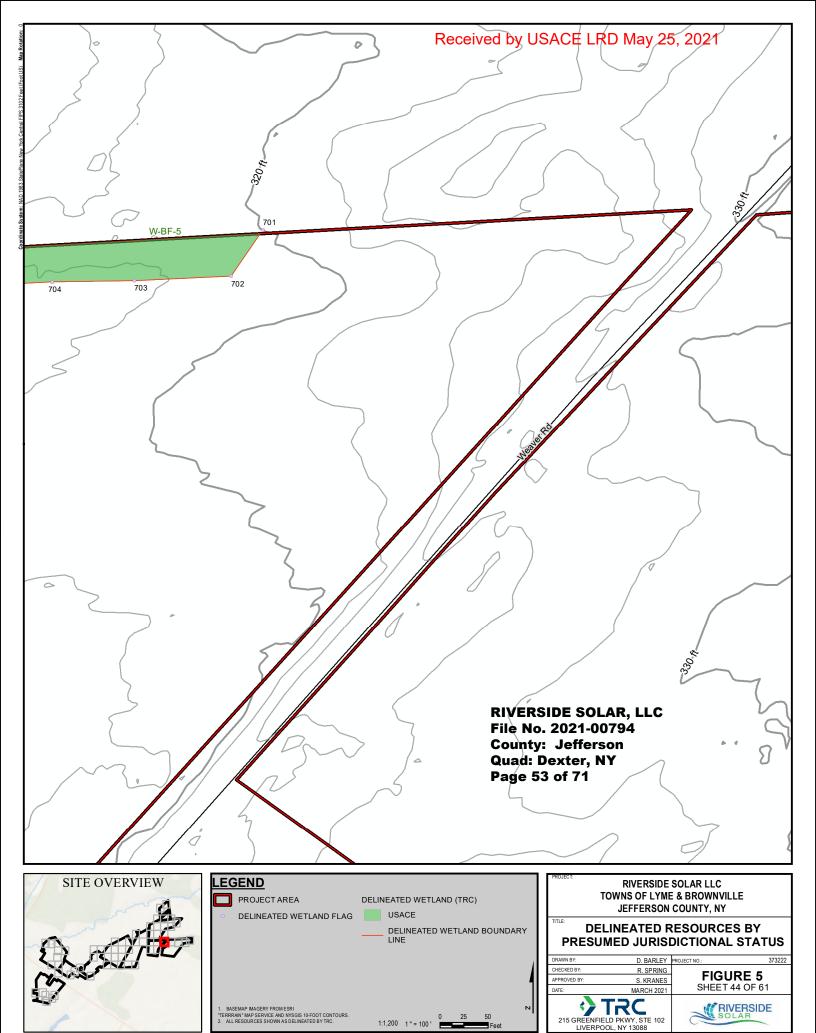
DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
CHECKED BY:	R. SPRING	FIGUE) F . F
APPROVED BY:	S. KRANES	FIGUE	
DATE:	MARCH 2021	SHEET 42	2 OF 61
	TRC ELD PKWY, STE 102 DOL, NY 13088	RIVE	ERSIDE AR

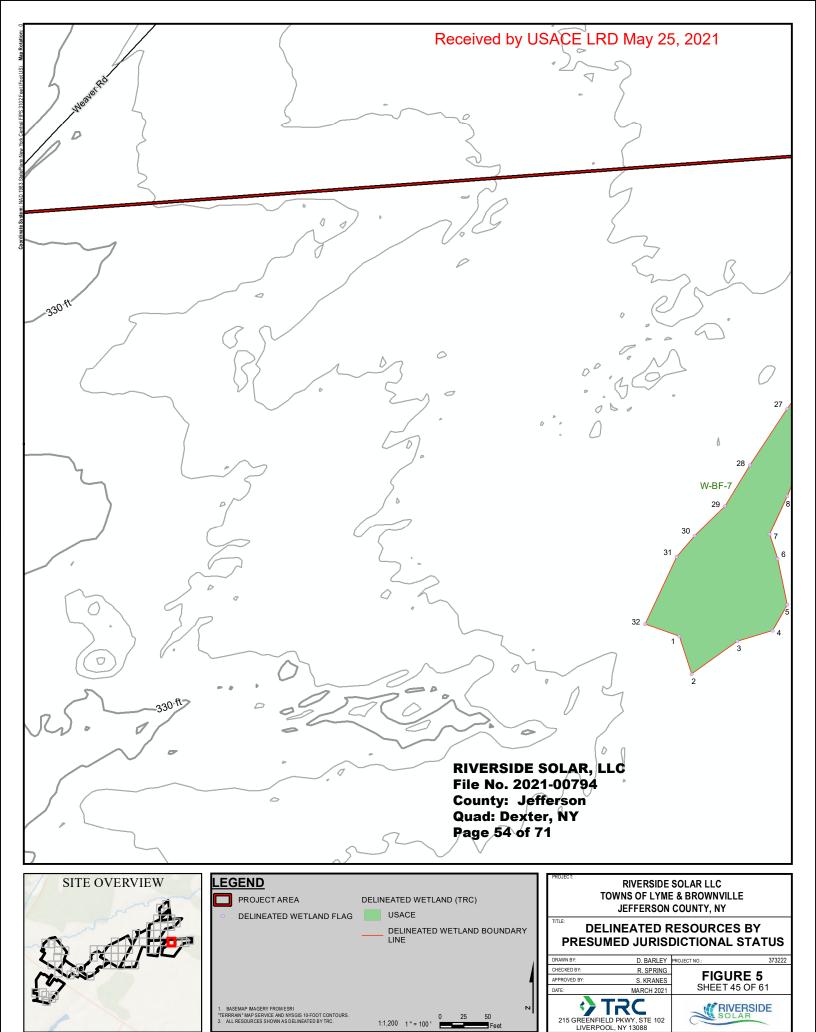


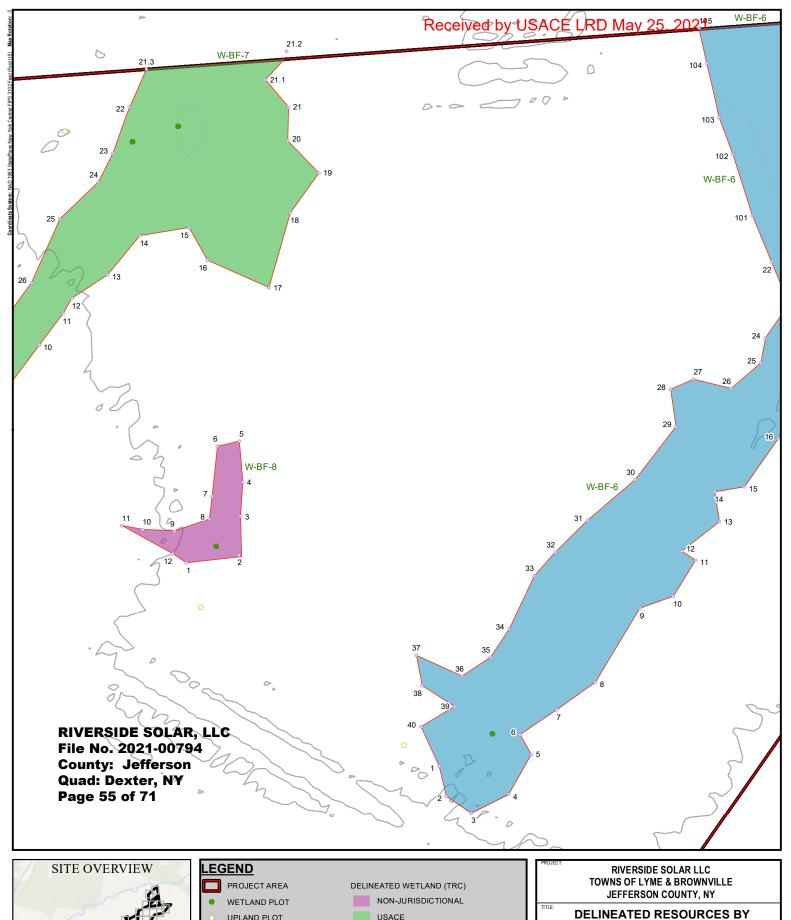




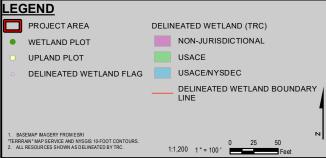
DRAWN BY:	D. BARLEY	PROJECT NO.:	37
CHECKED BY:	R. SPRING	FIGURE	_
APPROVED BY:	S. KRANES	FIGURE	
DATE:	MARCH 2021	SHEET 43 OF	- 61
215 GREENFIELD LIVERPOOL,		RIVERS	SIDE







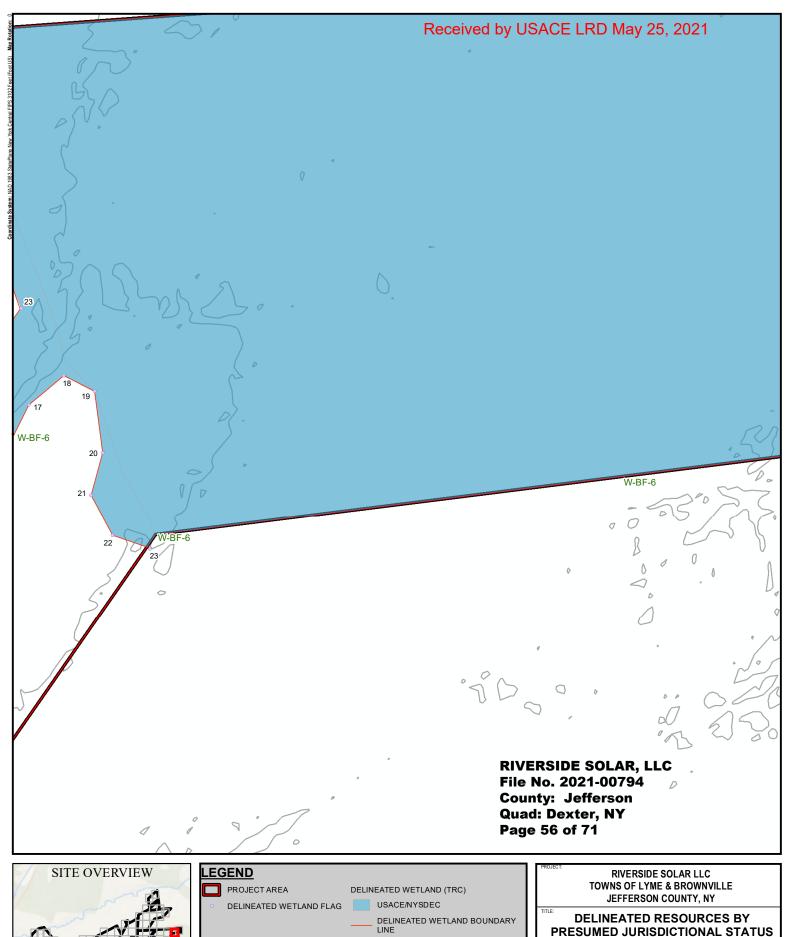


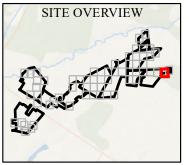


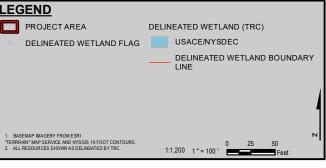
PRESUMED JURISDICTIONAL STATUS

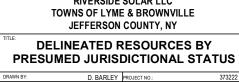
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DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
CHECKED BY:	R. SPRING	FIGUE) F =
APPROVED BY:	S. KRANES	FIGUE	
DATE:	MARCH 2021	SHEET 46	6 OF 61







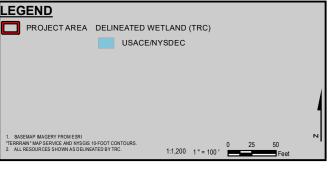




ı	DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
ı	CHECKED BY:	R. SPRING	FIGURE 5	
ı	APPROVED BY:	S. KRANES	FIGURE 5	
ı	DATE:	MARCH 2021	SHEET 47 OF 6	1
		TRC ELD PKWY, STE 102 DOL, NY 13088	RIVERSID	E

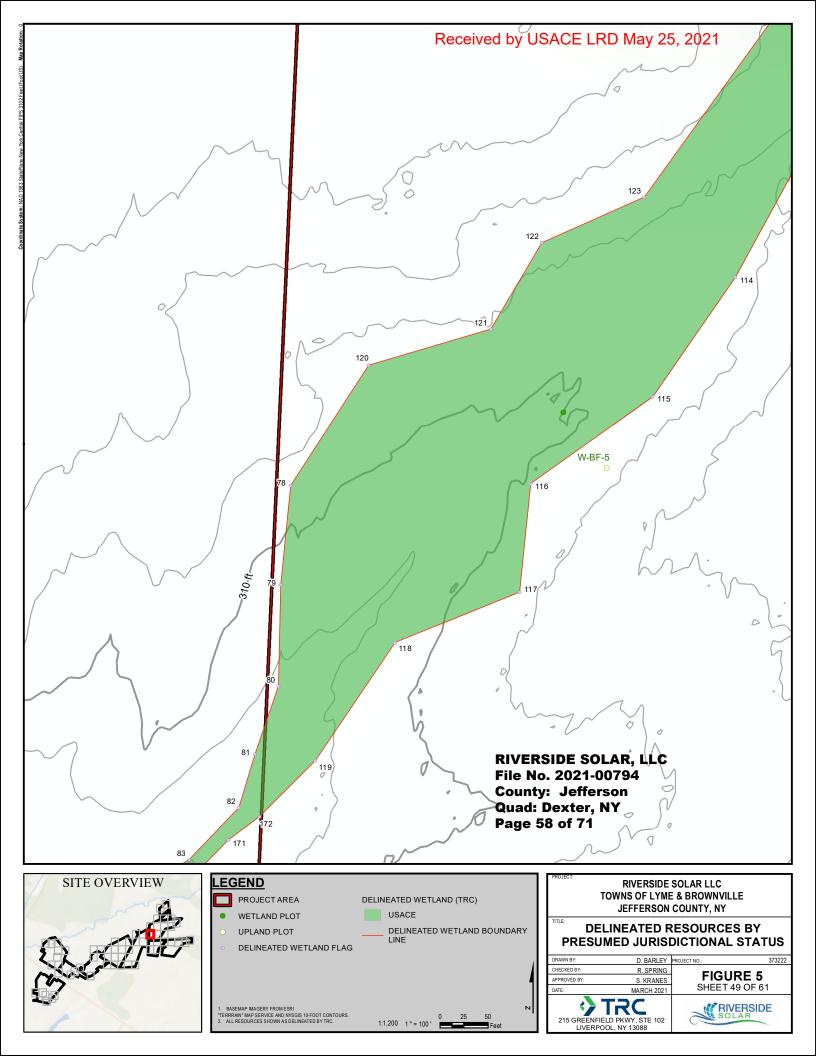


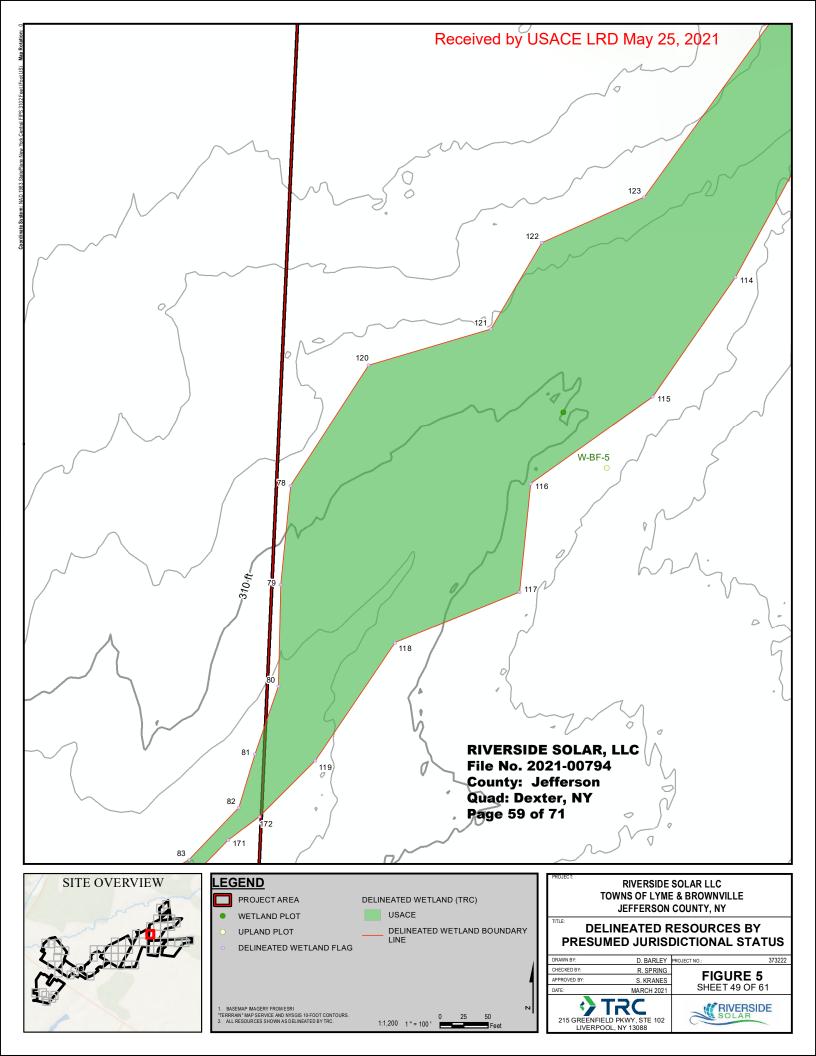


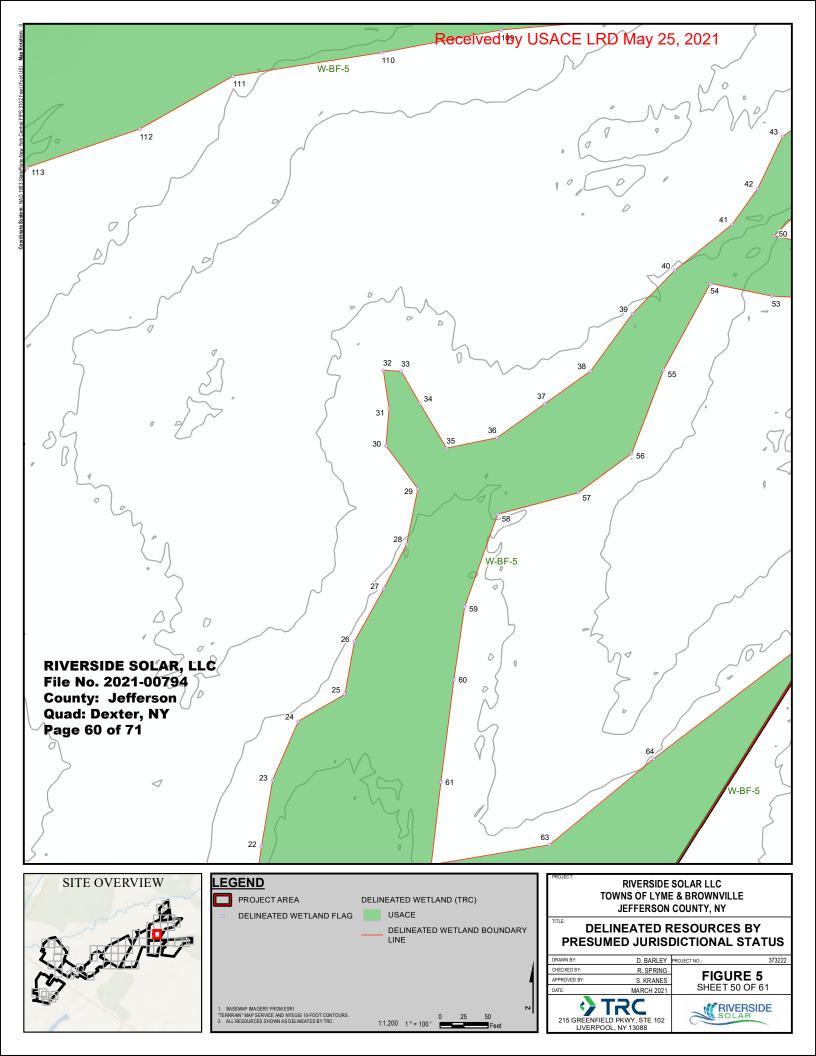


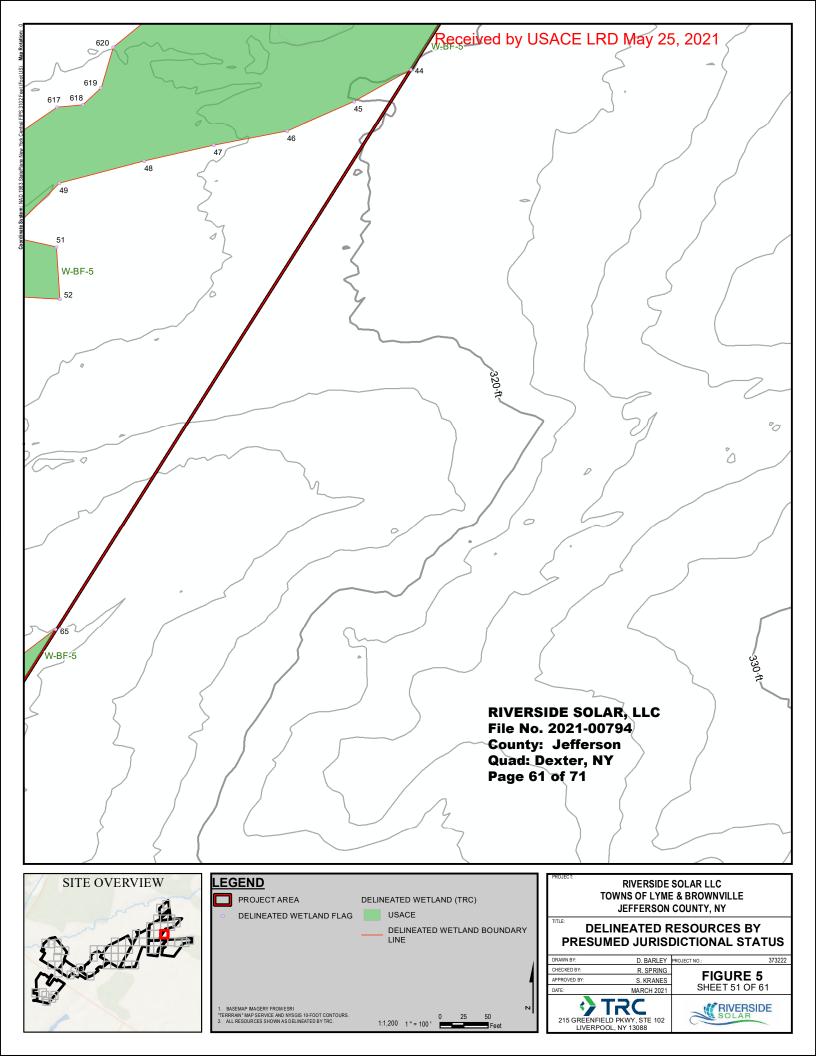
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DRAWN BY:	D. BARLEY	PROJECT NO.:
CHECKED BY:	R. SPRING	FIGURE 6
APPROVED BY:	S. KRANES	FIGURE 5
DATE:	MARCH 2021	SHEET 48 OF 6
	DRAWN BY: CHECKED BY: APPROVED BY:	CHECKED BY: R. SPRING APPROVED BY: S. KRANES

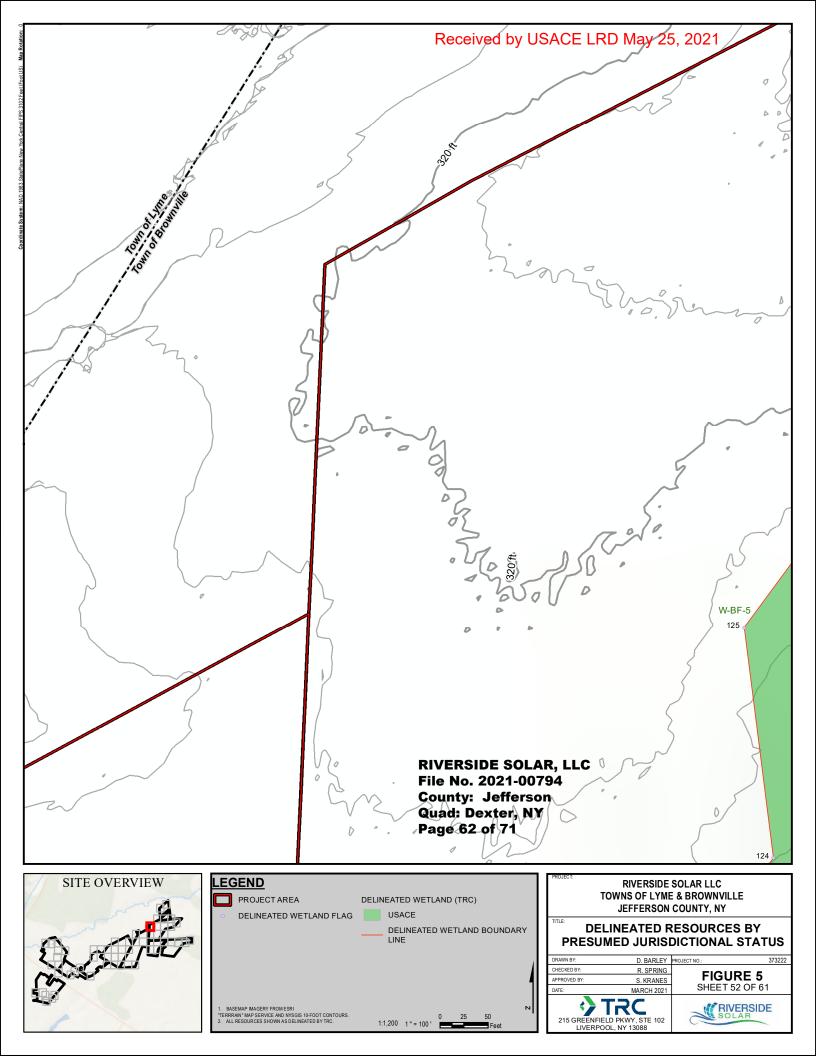


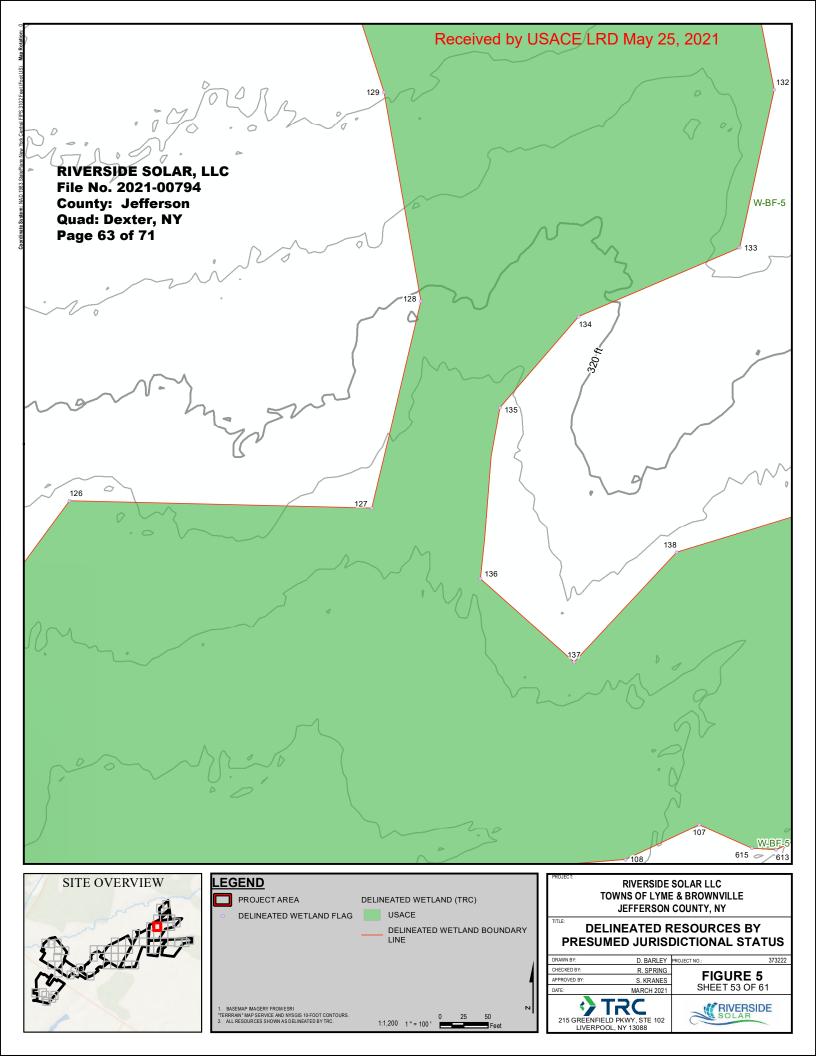


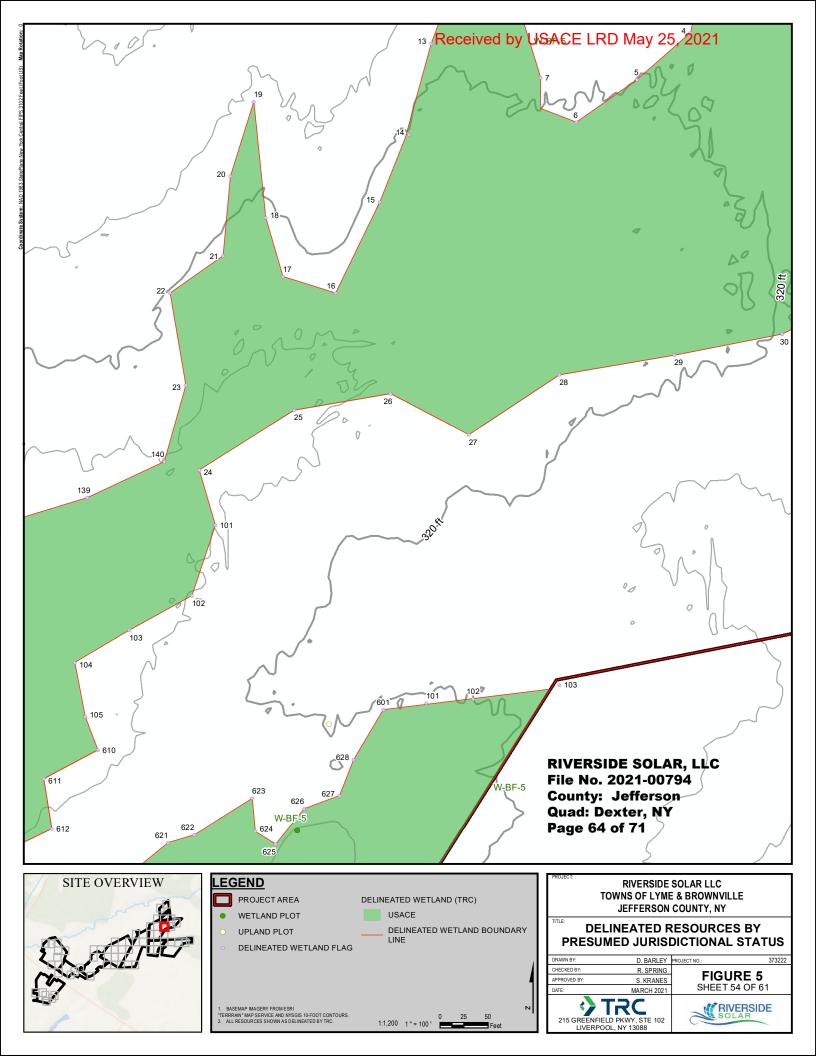


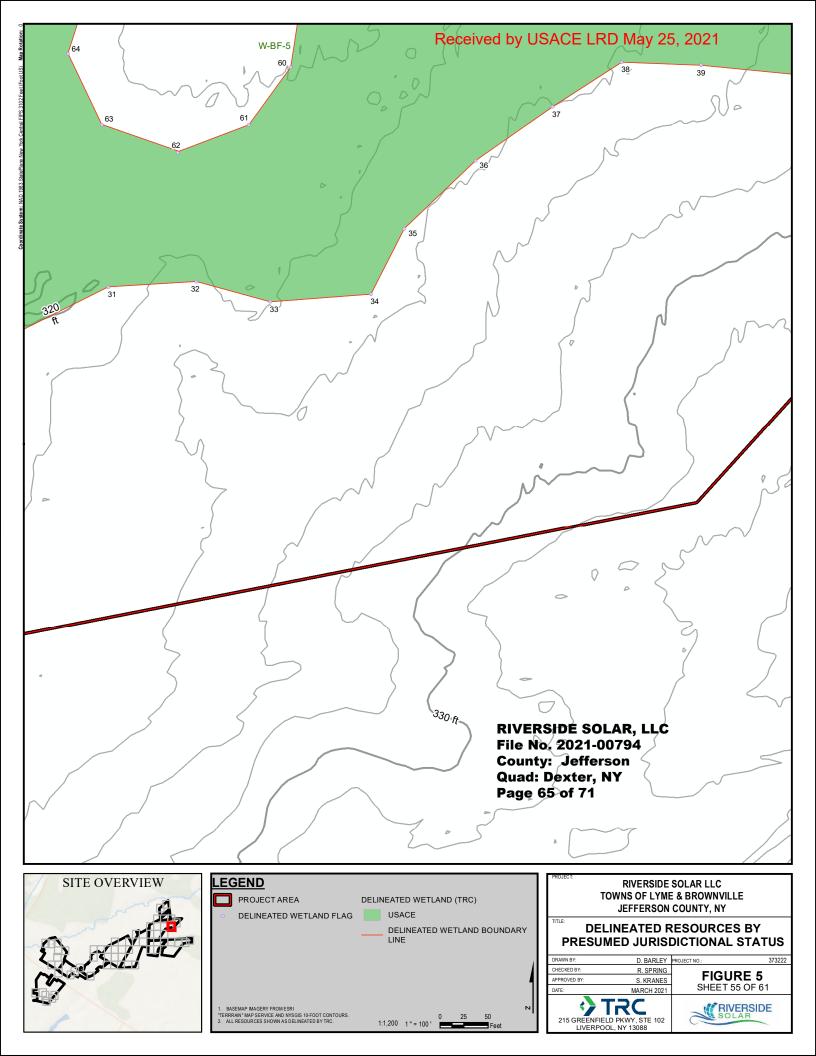


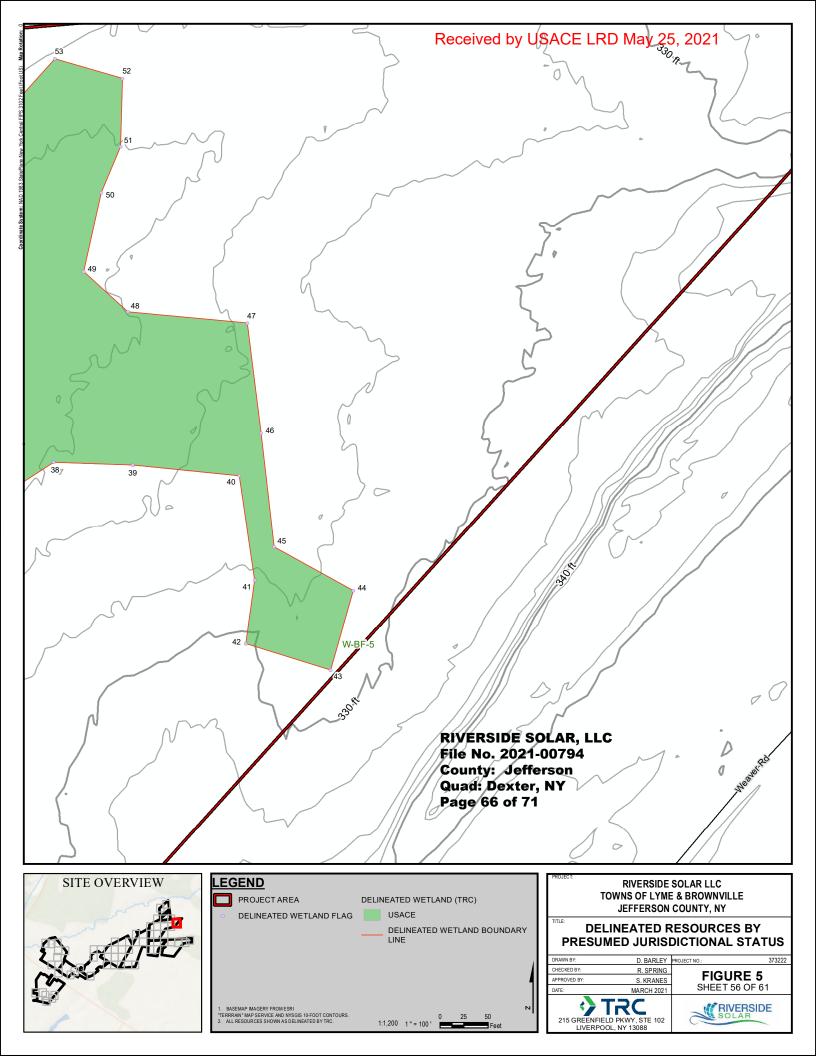


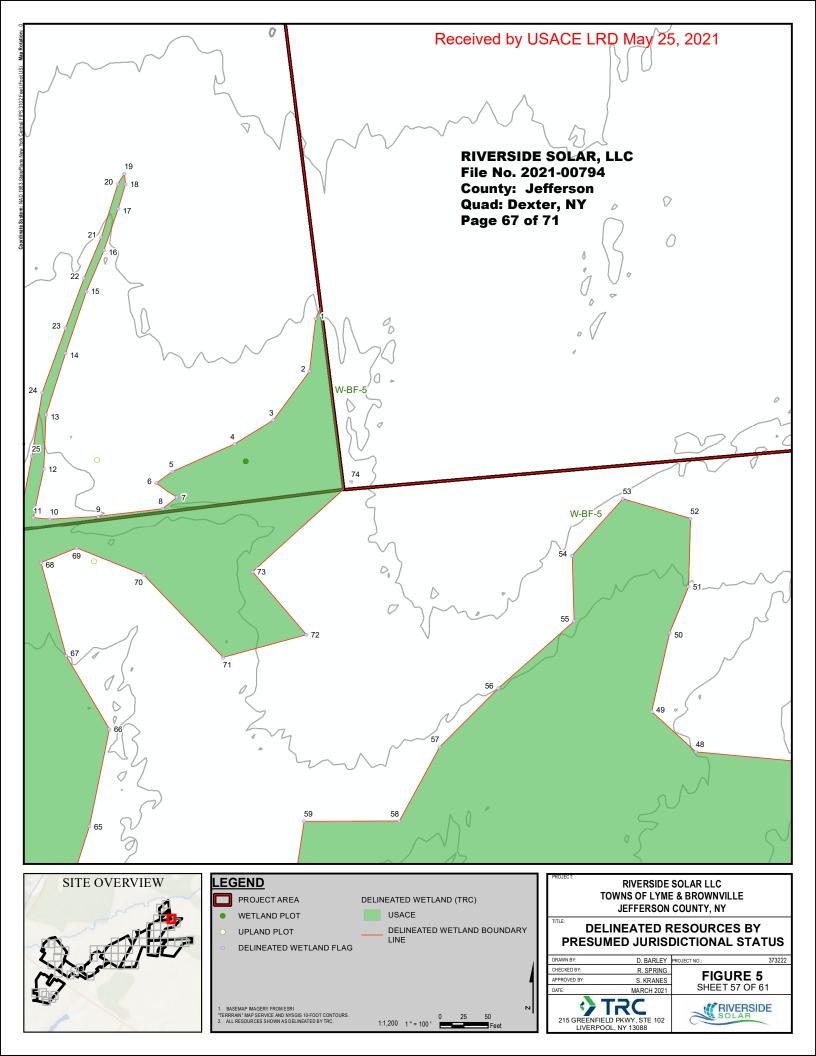


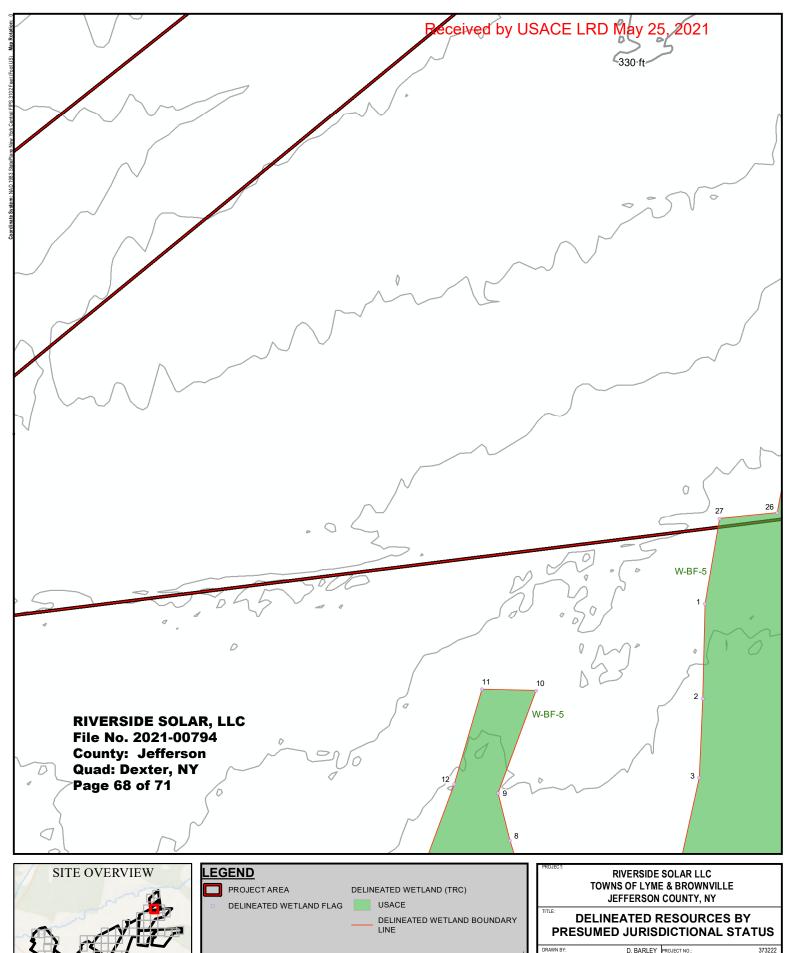




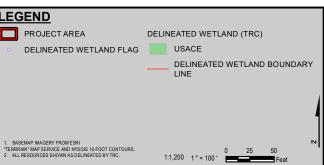












DRAWN BY:	D. BARLEY	PROJECT NO.:	373222
CHECKED BY:	R. SPRING	FIGURE	
APPROVED BY:	S. KRANES	FIGURI	
DATE:	MARCH 2021	SHEET 58 (OF 61
215 GREENFIELD P LIVERPOOL, N		RIVER	RSIDE

