

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8
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October 8, 2021

Mr. Mark Masse
Genesee County IDA
dba Genesee County Economic Development Center &
STAMP Sewer Works Inc.
99 Medtech Dr Ste 106
Batavia, NY 14020

BY EMAIL

Re: Initial Assessment and Land Management/Conservation Easement Considerations
for Wastewater Treatment Plant and STAMP Site as a Whole
DEC ID 8-9908-00210/000005
Alabama (T), Genesee (C)

Dear Mr. Masse:

Department staff met with you on September 10, 2021, to discuss the Initial Assessment (IA) on Plug Power. At that time, the Department brought up several issues pertaining to land management and mitigation of potential adverse impacts to the Tonawanda Seneca Nation (TSN) territory's status as a Traditional Cultural Property (TCP), eligible for listing in the State and National Registers of Historic Places. Genesee County Economic Development Center (GCEDC) suggested that these issues were not specific to Plug Power but more related to the STAMP site as a whole and/or future projects that are to be located nearer to the TSN territory.

The Department acknowledges the New York State Office of Parks, Recreation and Historic Preservation's (OPRHP's) determination that the Plug Power project will have no adverse impact to the TSN's territory TCP status, consistent with the conditions as laid out within the OPRHP letter (attached). We underscore that the determination is based upon the information available to the Department and OPRHP at this time. Please be aware that this does not preclude the Department or OPRHP from determining that future aspects of the STAMP project build out may in fact have potential adverse impacts to the territory's TCP status.

We further underscore the importance of developing the IA for the Wastewater Treatment Plant (which is the foundation for furthering the entire STAMP development), as well as other STAMP related Initial Assessments, to further mitigate potential adverse impacts to the TSN territory's TCP status. It is important to do these reviews now, to the extent practicable, rather than piecemealing these broader issues for every subsequent project. These discussions and conclusions will help prepare a foundation for future IAs consistent with the requirements of the Letter of Resolution between the Department, OPRHP, and GCEDC.

Therefore, we suggest a meeting soon with DEC and OPRHP, as well as consultation with TSN on these broader issues. These broader issues include, but are not limited to:

- We would like to discuss the update of the 2017 STAMP Land Management Plan and how it relates to the buffer area between the TSN and the any future development. The concerns of the TSN should be accommodated to the fullest extent practicable. The Department initially suggested ongoing maintenance of this buffer to maintain old field and shrub scrub habitat, important for many game species of importance to the TSN. However, TSN may have other requests and we defer to them for purposes of future land management goals for the buffer area.

We support any requests by TSN that the buffer area should be allowed to be used by the TSN for cultural purposes, such as gathering herbs and other uses (other than hunting), that help preserve the cultural use of the Big Woods and this adjacent buffer.

- We would again like to discuss the size of the buffer area with respect to the hunting-related discharge of firearms by TSN citizens and location of buildings, parking lots, and other accessible locations at STAMP. For safety purposes, we recommend the buffer be increased to a minimum of 500 feet. Where New York State hunting regulation is applicable, hunter safety is promoted, in part, by a prohibition on discharge of a firearm within 500 feet of a structure.
- There are many considerations for optimizing habitat and cultural protections which we would like to see included in an updated STAMP Land Management Plan. Updates should include, but are not limited to, maintaining wildlife corridors and habitats, prevention of the introduction of invasive plant and animal species which might adversely impact the TSN territory's TCP status, and ongoing site monitoring.

The Department believes that a commitment to regular reevaluation and update of the plan based on natural succession, land conditions, and TSN cultural uses will help mitigate potential adverse impacts to the TSN territory's TCP status by future components of the STAMP project build out.

In addition, there are references to mitigation measures described in the earlier SEQR documents that should be carried through to the STAMP Land Management Plan.

- We would also like to discuss the conservation easement for sensitive areas across the entire STAMP parcel, keeping in mind the location, functions, and benefits of the wetlands (state and federal), any protected areas adjacent to wetlands, and other habitats within this proposed conservation easement area. We believe this discussion should include the US Army Corps of Engineers.
- We draw your attention to National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties: "The fact that the boundaries of a traditional cultural property may be drawn more narrowly than they would be if they included all significant viewsheds or lands on which noise might be intrusive...does not mean that visual or auditory intrusions occurring outside the boundaries can be ignored. ...[S]uch intrusions if severe enough may compromise the property's integrity."

- Measures to limit traffic impacts to the TSN territory, including those related to the accidental killing of wildlife, increased vehicular traffic, and visual, odors, or auditory impacts, should be developed in consultation with the TSN and implemented to the degree possible. STAMP occupants should be notified of any resulting traffic plans. Efforts to mitigate resulting impacts should be considered and discussed with TSN representatives.

We look forward to continuing these discussions. It is appropriate that these issues be discussed and addressed as part of the IA review for the WWTF. As such, substantive progress on addressing these issues will also be essential to DEC's ability to document that the obligations under the STAMP Letter of Resolution have been met and issue necessary SEQR findings for the WWTF project.

Sincerely,



Kimberly A. Merchant
Deputy Regional Permit Administrator

Ecc by email:

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