

HAUDENOSAUNEE

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TONAWANDA SENECA NATION

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October 22, 2021

Kimberly Merchant
NYSDEC
6274 E. Avon-Lima Rd
Avon, NY 14414

**RE: Concern Regarding Phosphorus Discharge in Proposed SPDES Permit for
STAMP Sewage Work Corp.
SPDES No. NY 027 2078**

Nya:wëh Sgënö' Ms. Merchant:

On behalf of the Tonawanda Seneca Nation, Council of Chiefs, I'd like to extend greetings to you and your associates and give thanks that all are enjoying good health.

Thank you for the continued opportunity to present concerns regarding the SPDES permit for the STAMP facility. We appreciate the opportunity to use the Enhanced Public Participation Process as we have continued to review the extensive documentation you have provided regarding the proposed waste water facility to support the STAMP project. We are committed to protecting water quality in the area, as our people have been stewards of the local waters for thousands of years. We have significant concerns regarding the potential water quality impacts of the proposed discharge on the receiving water. Specifically, we have concerns that the Phosphorus discharge from the proposed facility may cause or contribute to a violation of water quality standards.

It is our understanding that the proposed receiving water is Oak Orchard Creek and that the outfall would be located upstream, or south, of Medina. We understand that this portion of Oak Orchard Creek is considered "Upper" Oak Orchard Creek with Hydro Unit Code 0413000104.¹ This segment of Oak Orchard Creek is listed on New York's Final 2018 Section 303(d) List as impaired for Phosphorus.² Inclusion of Oak Orchard Creek on the 2018 303(d)

¹ See DEC's description of the Oak Orchard Creek Watershed, at 8
[https://www.dec.ny.gov/docs/water_pdf/wilkontwoakorchard_\(1\).pdf](https://www.dec.ny.gov/docs/water_pdf/wilkontwoakorchard_(1).pdf).

² Final 2018 303(d) List at 26 https://www.dec.ny.gov/docs/water_pdf/section303d2018.pdf

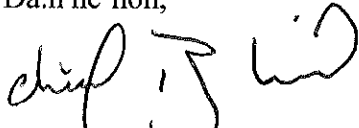
List as impaired for Phosphorus means that Oak Orchard Creek is currently not meeting its water quality standards relative to Phosphorus.

The Draft SPDES permit for STAMP Sewage Work Corp. includes a Total Phosphorus monthly average limit of 0.5 mg/L and a limit of 4.2 lbs/day. It is our understanding that the Clean Water Act prohibits issuance of a permit “[t]o a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards.” 40 C.F.R. § 122.4(i). Because this facility proposes a new Phosphorus discharge into a waterbody that is impaired for Phosphorus, it appears that the Clean Water Act would prohibit this proposed discharge.

We welcome any additional information you can supply to explain how this new Phosphorus discharge is allowed under the Clean Water Act and how it will not cause or contribute to a violation of water quality standards, or any changes that can be made to the proposed facility that would ensure the facility will protect water quality in Oak Orchard Creek.

We look forward to discussing this matter with you at your earliest convenience.

Da:h ne’hoh,

A handwritten signature in black ink, appearing to read "Chief Roger Hill". The signature is stylized and includes a large, sweeping flourish that extends to the right.

Chief Roger Hill
Council of Chiefs
Tonawanda Seneca Nation