

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 8

6274 East Avon-Lima Road, Avon, NY 14414-9516

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[www.dec.ny.gov](http://www.dec.ny.gov)

December 23, 2021

Christine G. Abrams  
On Behalf of Council of Chiefs  
TSN Office Administrator  
Tonawanda Seneca Nation  
[tonseneca@aol.com](mailto:tonseneca@aol.com)

BY EMAIL ONLY

Re: TSN December 3, 2021 Letter  
STAMP Sewer Works, Inc.  
Proposed WWTF at STAMP  
DEC ID #8-9908-002101/000005  
Alabama (Town), Genesee County

Dear Ms. Abrams:

This is in response to the letter dated December 3, 2021, to Kimberly Merchant, New York State Department of Environmental Conservation (DEC) Region 8 Division of Environmental Permits, seeking to submit comments from the Tonawanda Seneca Nation until January 21, 2022, on the application for a State Pollutant Discharge Elimination System (SPDES) permit for a new wastewater treatment facility (WWTF) at the site of the Western New York Scientific Technological Advanced Manufacturing Park (STAMP).

Please be advised that DEC will accept written comments on the application on behalf of the Tonawanda Seneca Nation until 1 o'clock in the afternoon on January 14, 2022.

More than four months have already passed since August 4, 2021, when DEC published public notice of complete application, draft permit availability, and the 30-day period required for submission of written public comment by the New York State Uniform Procedures Act (UPA). Also, the permit applicant (STAMP Sewer Works, Inc., a corporation formed by STAMP sponsor, Genesee County Economic Development Center [GCEDC]), has not provided its written consent to extend UPA deadlines for DEC application processing; see attached the GCEDC email dated December 8, 2021.

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Moreover, unlike the other wastewater treatment configurations GCEDC considered prior to the final version of the SPDES permit application, no wastewater from the proposed WWTF would enter the TSN reservation watershed under the SPDES permit. Rather, the force main/effluent pipe from the WWTF would run for nine miles to an Oak Orchard Creek discharge point well away from that watershed.

TSN written comments on the application must be addressed to Kimberly Merchant, New York State Department of Environmental Conservation, Region 8 Avon Office Division of Environmental Permits, 6274 East Avon-Lima Road, Avon, NY, 14414, and must be received by DEC via email to [kimberly.merchant@dec.ny.gov](mailto:kimberly.merchant@dec.ny.gov) or as hard copy via mail or hand delivery by no later than 1 o'clock in the afternoon of Friday, January 14, 2022.

Sincerely,

/s/ Lisa Perla Schwartz

Assistant Regional Attorney

#### Attachment

Ecc: Alex Page, Esq., [alex.c.page@gmail.com](mailto:alex.c.page@gmail.com)  
Adam Walters, Esq., [awalters@phillipslytle.com](mailto:awalters@phillipslytle.com)  
Tara Blum, DEC  
Don Canestrari, DEC  
Tom Haley, DEC  
Kim Merchant, DEC  
Scott Sheeley, DEC  
Chuck Vandrei, DEC  
David Witt, DEC

**From:** [mmasse@gcedc.com](mailto:mmasse@gcedc.com)  
**To:** [Merchant, Kimberly \(DEC\)](#); [Schwartz, Lisa \(DEC\)](#)  
**Cc:** [AWalters@phillipslytle.com](mailto:AWalters@phillipslytle.com); [Matthew J. Fitzgerald](#); [Sheeley, Scott E \(DEC\)](#)  
**Subject:** Permit for Force Main construction  
**Date:** Wednesday, December 8, 2021 10:29:53 AM

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Kim and Lisa,

As you are aware we are meeting with the CEO of Project Greenleaf next Tuesday with ESD and the Governor's office to discuss the incentive letter that NYS provided to them. This is the type of project that we have been working towards, and informing you about, for the last ten years. I have serious concerns about our ability to meet their construction deadlines to have the forcemain operational when they are ready to begin operations. Due to substantial Department delays in reviewing information provided with our application and lack of the issuance of our permit, we have lost one construction season already and are in serious jeopardy of missing the upcoming one.

We know that the Seneca Nation are our neighbors, and we have made every effort over the last ten years to engage them, keep them informed, and listen to and address any reasonable concerns that they may have. We are committed to continuing this engagement with them into the future. But in their own press release regarding the settlement of the lawsuit one chief was quoted as saying they don't want any development at STAMP. From my perspective, the actions that the DEC has taken to date have done nothing but enable the Nation to delay our project. Years ago, when the GCEDC looked at on site waste water treatment and was looking for a body of water to discharge it to, both the Nation and the DEC told us to stay away from the Tonawanda Creek because the Nation did not want our wastewater being discharged there. The GCEDC did exactly that and will now run a force main nine miles at great expense.

The Seneca Nation's recent request to extend the date for them to submit additional comments on the WWTF until January 21 is simply unacceptable. The DEC had a 30 day comment period that ended September 9, 2021. The GCEDC also met with Nation leadership in early September to review the project and they stated that a second meeting was not necessary. This is an industry standard technology waste water treatment plant that is significantly better than the aging facilities we currently have in our municipal centers many of which are surrounded by residential homes. We cannot see how, after having the materials available since August 9 when the public notice was issued, that it would reasonably take six months to analyze and comment on the project. The idea that they will find any additional concerns in the next 30 days is, frankly, nonsense. Thus, we see no reason to hold up the permitting process.

The GCEDC requests that the DEC provide a reasonable timeline for the issuance of the permit to enable the construction of the force main across the Refuge prior to April 15, 2021 (no construction may occur on the Refuge after that date until mid-summer). I need to be prepared to respond to the Governor at next Tuesday's meeting if she asks me if I think we can get the infrastructure for this project done on time. We have given every opportunity for the Nation to participate in this process and raise any real issues or concerns. The time has come to move forward.

Thanks,

Mark A. Masse, CPA

Profile photo #2



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