



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**

GENESEE COUNTY IDA

d/b/a GENESEE COUNTY ECONOMIC  
DEVELOPEMENT CENTER  
99 MEDTECH DR STE 106  
BATAVIA, NY 14020  
(585) 343-4866

STAMP SEWER WORKS, INC.  
99 MED TECH DR STE 106  
BATAVIA, NY 14020  
(585) 343-4866

**Facility:**

GCEDC SUBSTATION, WWTP, POWERLINE  
& 182 MITIGATION  
LOCATED AT STAMP FACILITY|ST RTE 77 &  
63 W SIDE  
ALABAMA, NY

**Facility Location:** in ALABAMA in GENESEE COUNTY

**Facility Principal Reference Point:** NYTM-E: 222.368 NYTM-N: 4777.284

Latitude: 43°05'50.7" Longitude: 78°24'41.2"

**Authorized Activity:** This permit authorizes a modification to the incidental take permit issued September 2, 2022, for impacts to foraging habitat used by the short-eared owl and northern harrier on lands to be occupied by electrical infrastructure and a wastewater treatment facility for the STAMP, the Western New York Science, Technology and Advanced Manufacturing Park. The total taking for the STAMP Wastewater Treatment Facility (WWTF), substation, and associated access roads, was originally authorized for 11.6 acres of permanent impacts and 12.1 of temporary impacts.

This modification includes construction of the power line after November 1, 2022 because the disturbance after this time will result in the temporary taking of habitat. The construction of the powerline past this date will have a temporary impact on the state listed species, over approximately 21 acres, or more, and is thus required to be authorized by this Incidental Take (Part 182) Permit. Total ground disturbance for the modification will be an additional 21.6 acres, with some additional incidental disturbance possible.

The new line will start at a pole that sits approximately mid-way down the north side of STAMP Road, it will then extend to the west for approximately 1.1 mile before turning north, along the conservation easement protected area between the STAMP site and the Tonawanda Seneca Nation Reservation for approximately 0.8 miles. The new line meets back up with the existing line in a forested area along the northern boundary of STAMP. In addition to the new poles and line, a 14-foot-wide gravel access road will be installed from the laydown area (used for staging Project materials and equipment) to the northern end of the line, spanning approximately 1.2 miles (Figure 1 of the application). A gated



entrance will secure access to the new gravel access road, excluding all except National Grid from utilizing it.

To provide a Net Conservation Benefit for this additional impact, the permittee will enhance a 25-acre field, that is a portion of a 56-acre parcel of land located on the STAMP site, for one year beyond the original 7 years, for a total of 8 years. This permit requires selective mowing or herbicide application to control and remove any woody vegetation during this time period.

This mitigation parcel is bordered on the east and west by open fields currently in agricultural production and maintaining the mitigation parcel as open field grassland habitat keeps the larger contiguous block of field habitat intact with the larger managed grasslands to the east on the John White Wildlife Management Area.

Permittee must follow the practices and conditions agreed upon in the June 2022 application and the June 17, 2022 supplemental information letter, with the exception of the work restrictive date for the powerline, which has been lifted as a result of this permit, along with the conditions in the September 2022 application package.

The existing powerline will be removed between April 1 and November 1, thus that disturbance will not require a taking permit.

### Permit Authorizations

#### Endangered/Threatened Species (Incidental Take) - Under Article 11

Permit ID 8-1820-00032/00001	Issued Effective 09/02/2022	Expires 09/01/2032
Modification	Issued Effective 10/31/2022	Expires 09/01/2032

### NYSDEC Approval

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: THOMAS P HALEY, Regional Permit Administrator  
Address: NYSDEC Region 8 Headquarters  
6274 E Avon-Lima Rd  
Avon, NY 14414

Authorized Signature: Thomas P. Haley Date: 10/31/2022



## Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: ENDANGERED/THREATENED SPECIES (INCIDENTAL TAKE)**

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by CC Environment dated June 2022 (received June 7, 2022) and the STAMP Take Permit Amendment Letter dated June 17, 2022.
- 2. Conformance with Plans - Addenda** In addition to plans referenced in the Condition titled "Conformance with Plans," the activities authorized by this permit must be in strict conformance with the following approved plans and/or submissions made as part of the permit application: Western NY STAMP Incidental Take Permit Modification, dated September 2022, by CC Environment and Planning.
- 3. Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to Regional Wildlife Manager, Fish and Wildlife at least 48 hours in advance of the time of commencement and shall also notify them promptly in writing of the completion of work.
- 4. Prohibition of Sale or Transfer** This permit prohibits sale or transfer of the land upon which the mitigation parcel (i.e., 25-acre mitigation area) is located for the duration of the Net Conservation project described in the authorized activities section, which must be a minimum of eight years from the date this permit is issued, and until the project is completed to the satisfaction of the Department; or unless the Department modifies this permit to allow otherwise.
- 5. Applicant Commitment to Fund and Execute** As per the Applicant's Commitment to Fund and Execute, the applicant must submit a copy of the GCEDC board resolution authorizing the mitigation action and funding required to complete the work prior to initiating any ground disturbance authorized by this permit."
- 6. Specific Mitigation Action** To ensure successful conversion of habitat, Permittee(s) must do the following:
  1. Mowing/brush-hogging of the northern woody portion of the mitigation area in late summer 2022. This mitigation preparation must be completed by November 1, 2022 due to expected arrival of E&T species.



2. In late Spring 2023, after sufficient regrowth, a broad-leaf specific herbicide must be applied to resprouting woody vegetation by a licensed applicator contracted by Permittee(s).
3. Immediately following herbicide treatment, areas of bare ground previously covered by dense shrubs must be seeded with a native grass and forb mix.
4. Annual mowing or spot mowing after August 15 for the first few years if necessary to suppress growth of woody vegetation and allow grass and forb species to establish. Monitoring annually in early summer to determine if mowing is necessary later that summer.
5. After the initial treatment to remove woody vegetation, mowing of not more than 1/3 of the entire 25-acre mitigation field in any one growing season.

**7. Maintenance Schedule Requirements** Following the initial treatment of the mitigation site to remove the woody vegetation and any necessary management to establish new grass/forb plantings, management of the mitigation site should focus on providing grassland winter cover for northern harrier and short-eared owls, and thus management actions should be timed to ensure such cover exists at the start of winter. Timing of mowing needs to allow for regrowth of grass cover before winter, or be restricted to only targeting woody vegetation and leaving the existing grass cover. Due to the potential presence of breeding grassland birds, management should also be avoided during the breeding season (April 23 - August 15). Potential management options are to do a spring mowing between April 1 and April 23 after it has been determined that wintering raptors are no longer present in the vicinity or to do spot mowing for woody vegetation (leaving sufficient cover) between August 15 and November 1. Once the existing woody vegetation is controlled and the new grass areas are established, management will likely not be necessarily every year, but it must be done as needed to maintain the area in suitable habitat. After the initial treatment to remove woody vegetation, not more than 1/3 of the mitigation field should be mowed in any one growing season.

**8. Monitoring of Mitigation Site for Status of Habitat and Need for Maintenance** Mitigation site must be monitored at least annually, preferably in the fall, but prior to November 1st, to assess status of wintering habitat for short-eared owl and northern harrier and to determine proposed maintenance needed. Monitoring reports must include a description of the vegetation present, including percent woody vegetation and the presence of any invasive species. Photo points showing representative views of the mitigation area must be established before mitigation begins. Pictures must then be taken at least annually from these photo points.

**9. Inspections and Corrective Actions**

Department staff are authorized to inspect the mitigation site. Upon observation of issues requiring corrections, the Department will notify applicant and representative. Applicant will correct, or employ contact to correct, issues with Mitigation Site requiring corrective action.



**10. Annual Report and Corrective Action Requirements** An annual report must be submitted by November 1 of each year and include the following:

- Status of Mitigation Implementation
- Annual Management Activities
- Issues requiring Corrective Actions
- Corrective Actions taken and planned for the following year
- Summary of vegetation present
- Summary of any surveys done of target species
- Pictures taken from established photo points showing representative views of the mitigation area during development and implementation

**11. Bird Survey Requirements** **Bird Survey Requirements:** Surveys to assess use of the 25-acre mitigation area by wintering raptors completed at least monthly in winter season (November-March) following approved survey protocols, with a summary report to DEC by April 30 annually. Wintering grassland raptors may stay on their wintering grounds into April, and there is also a small possibility that either or both species may stay to nest. Before any management including spring mowing (which must only occur between April 1 and April 23), additional surveys are required in April if Short-eared Owl and/or Northern Harrier are present at the mitigation site or vicinity during March. Surveys must be done weekly in April until it is determined that birds have left the wintering grounds, by two consecutive survey periods failing to document continued presence of either species.

If birds of either species are still being observed through or beyond April 23, no habitat management (mowing) can be done until after August 15 of that year, and surveys must continue and switch to using the grassland bird breeding protocols to document any breeding behaviors. Breeding season surveys, if dictated by continuing presence, must continue until two consecutive survey periods fail to document continued presence of either species.

## **12. Invasive Species**

Equipment will be cleaned prior to use at the mitigation site to remove invasive species seeds and plants.

Should an invasive species plant be brought in to the site, it will be eradicated by use of manual and herbicide maintenance during the timeframes included in the maintenance schedule included in Conditions 6 and 7 of this permit, and completed in a timely manner.

**13. Prior Approval of Changes** If the Permittee desires to make any changes in construction techniques, species to be planted, the site plan, any mitigation plan, scheduling or staging of construction, or any other aspect of this project, the Permittee shall submit a written request to the Regional Permit Administrator to make such proposed changes and shall not make such changes unless



authorized in writing by the Department.

**14. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

**15. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**16. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

**17. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

### **GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.



**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC Region 8 Headquarters  
6274 E Avon-Lima Rd  
Avon, NY14414

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Endangered/Threatened Species (Incidental Take).

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.