

State Environmental Quality Review
FINDINGS STATEMENT

Pursuant to Article 8 (State Environmental Quality Review (SEQR) Act) of the Environmental Conservation Law and 6 NYCRR Part 617, the NYS Department of Environmental Conservation (DEC), as an involved agency, makes the following findings.

Name of Action:

Western NY Science and Technology Advanced Manufacturing Park (STAMP)
Sitewide Part 182 Incidental Taking of Threatened and Endangered Species

Name of Permittee: Genesee County IDA, DBA Genesee County Economic
Development Corporation

DEC Number: 8-1820-00032/00003

Agency Jurisdiction(s):

Incidental Take of Threatened or Endangered Species pursuant to ECL Article 11 and 6
NYCRR Part 182

(Note: additional DEC jurisdiction applies to other components of the STAMP project but will be addressed separately as specific development projects are identified during the buildout of the STAMP site).

Location:

This project includes the entirety of the STAMP site which is west of State Route 77/63, south of State Route 77, and north of Judge Road in the Town of Alabama. The western boundary of the STAMP site is the eastern boundary of the Tonawanda Seneca Nation.

Description of Action:

Genesee County IDA d/b/a Genesee County Economic Development Center (GCEDC) has applied for a sitewide Article 11, Part 182 permit to take overwintering habitat used by the state-listed endangered short eared owl (SEOW) and the State-listed threatened northern harrier (NOHA) on the STAMP site being developed by GCEDC.

The proposed taking and associated mitigation is intended to, for 6 NYCRR Part 182 (Part 182) purposes, address the full development of the STAMP site for future tenants. Based on the conceptual development plan in the SEQR record noted below, the regulated impacts would be 665 acres of permanent impacts to open habitat which have been deemed occupied habitat for the endangered and threatened species referenced above.

To mitigate the proposed impacts, a 1:1 replacement of the impacted habitat at the STAMP site will be accomplished by a Mitigation Plan which consists of the use of two

fields: a 25-acre parcel in the southeastern portion of the site that will provide 275 acres of mitigation, and a 33-acre parcel located just north of the westernmost portion of the John White Wildlife Management Area that will provide 396 acres of mitigation.

The 25-acre site is currently being used as active mitigation for 8 years (until 2030) for previous impacts to endangered and threatened species associated with the STAMP wastewater treatment plant project. After that period, the 25-acre site will be maintained in grassland habitat for an additional period of 45 years (accounting for nine 5-year cycles). In addition, a permanent conservation easement will be granted to the recently formed not-for-profit, New York Green, Inc., within four months of permit issuance (accounting for two 5-year cycles). Therefore, the 25-acre site will provide a total of 275 acres of mitigation (eleven 5-year cycles of 25 acres).

The 33-acre site will be converted from row crop to grassland, including hedgerow removal to increase connectivity, and maintained in grassland habitat for a period of 30 years, which will account for six 5-year cycles totaling 198 acres of mitigation. The 33-acre site will also be deeded to NYSDEC and subsequently incorporated into the adjacent John White Wildlife Management Area (WMA), which would account for another six 5-year cycles, totaling 198 acres of mitigation. Therefore, the 33-acre parcel will provide a total of 396 acres of mitigation.

Note: To the extent future development within the STAMP site may require further DEC approvals, separate Findings Statements will be issued at the appropriate time. This Findings Statement is limited to the site-wide Part 182 permit and does not address the Edwards Vacuum, Scannell Project, or Infrastructure Projects at the STAMP site, except to the extent that the site-wide Part 182 permit assumes the development of 665 acres and the associated impacts to endangered and threatened species referenced above.

Date of filing of SEQR Documents including Final Generic EIS Filed, FEF, Resolution, and Findings:

The Draft Generic EIS was filed April 14, 2011, and the Final Generic EIS was filed January 19, 2012, by Genesee County Economic Development Center (“GCEDC”) as the SEQR Lead Agency.

The Lead Agency Findings Statement was issued March 2012 and amended July 2016.

The Final Generic EIS referenced above; the “State Environmental Review Act Update for Proposed Improvements for Western New York Science and Technology Advanced Manufacturing Park” dated June 29, 2020, which includes a summary of changes,

The “Resolution of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center to Amend a Negative Declaration Pursuant to the State Environmental Quality Review Act concerning Current Proposed STAMP

Development the Western New York Science and Technology Advanced Manufacturing Park” signed February 2, 2023.

GCEDC Negative Declaration dated February 2, 2023

Additional Documents Relied Upon to Support the Decision:

Full Campus Incidental Take Permit for Western New York Science & Technology Advanced Manufacturing Park (STAMP) dated February 2023, received February 3, 2023

Revised Full Campus Incidental Take Permit for Western New York Science & Technology Advanced Manufacturing Park (STAMP) dated February 2023, received February 17, 2023

Letter dated March 10, 2023, from Phillips Lytle LLP (in response to NYSDEC March 3 Additional Request for Information)

Memorandum from CC Environment and Planning dated May 5, 2023, “STAMP Part 182 Full Campus Permit Implementation Agreement”

Consideration of the Relevant Impacts, Facts and Conclusions in the Final EIS (and SEQR resolutions and Findings) and Provision of Agency Rationale

State-Listed Endangered and Threatened Species:

Based on the review of wintering raptor and breeding bird survey data and reports prepared for the STAMP site, the Department determined 665 acres of the STAMP site proposed for development are considered occupied habitat for the State-listed endangered short-eared owl and State-listed threatened northern harrier. It should be noted that prior surveys included in the 2011 Generic Environment Impact Statement did not show the use of these lands such that they were not considered occupied habitat by these listed species. During the environmental impact review process, the applicant sought to avoid and minimize impacts to the known natural resources, including the establishment of buffers and setbacks.

To avoid and minimize impacts to SEOW and NOHA, GCEDC will remove developable acreage within the STAMP site from their planned development and will instead use this acreage to create grassland habitat for use by these species. Lands were selected proximate to John White WMA, a known and important winter raptor use area, to further limit disturbance to species that are utilizing that nearby habitat and to expand upon areas of known occupied habitat. Buffers and setbacks have also been established to reduce impacts to sensitive features. Agricultural activities will continue up until the time of construction, which will ensure these fields remain open and accessible to wintering

raptors. Open buffers along the edges of the STAMP site, adjacent to neighboring open fields, may continue to provide habitat even after development either as direct foraging areas or as a potential source population of prey species that could recolonize former fields after development or disturbance.

The Part 182 permit will include additional conditions that will place restrictions (lighting and pesticide use) on STAMP lands adjacent to the Part 182 mitigation sites.

Managing habitat for grassland birds is a priority within the northeast, including New York State. The STAMP site lies within the Oak Orchard – Iroquois Grassland Bird Conservation Center, one of five State focus areas for managing habitat for grassland birds designated within the NYSDEC Strategy for Grassland Bird Habitat Management and Conservation. As part of this strategy, the DEC is committed to managing open habitat to benefit grassland birds within the John White, Oak Orchard, and Tonawanda WMAs. The strategy also calls for working with partners and private landowners to encourage best management practices for grassland birds outside of DEC land within the concentration area. These efforts will help to maintain short-eared owl and northern harrier populations in and around the Iroquois wildlife complex. The mitigation plan outlined in the Description of Action section above proposes to enhance grasslands at John White Wildlife Management Area (WMA) by removing a portion of a large hedgerow to connect a proposed grassland field with existing grassland on the state-owned property, thereby establishing additional grassland habitat connectivity. A proposed 33-acre grassland area will be deeded to DEC for incorporation into the John White WMA for permanent habitat protection. Combined with the creation and protection of high-quality grassland habitat on the 25-acre mitigation site for a 45-year period is a long-term commitment of maintaining high-quality habitat for grassland-dependent bird and pollinator species. As a result of these proposed habitat improvements and expansions, SEOW and NOHA that winter in this area will be able to continue to forage at both the STAMP site and on the existing habitat in the surrounding landscape with no anticipated impacts to either species' population.

Wildlife

Other than the State-listed species and habitat addressed above, the STAMP site contains wildlife common to the land uses found within the STAMP site, which are predominantly agricultural, consisting of row crops and maintained hay fields. Small areas of wooded or early successional old-field habitats also exist within the site. The western boundary of the site is largely wooded. The land uses at the STAMP site are found in abundance in the surrounding areas of the town and county. Therefore, populations of the common wildlife species present on the STAMP site will continue to persist beyond the site, and those individuals present on the STAMP site that may be displaced will have other nearby areas to occupy as the buildout of the STAMP site progresses over time.

Iroquois National Wildlife Refuge: This project does not encroach onto the United

States Fish and Wildlife Service (USFWS) Iroquois National Wildlife Refuge, which is located approximately one mile north of the STAMP site. However, the outfall pipe for the STAMP wastewater treatment plant runs north along the west side of NYS Route 63 just within the refuge boundary. A separate DEC freshwater wetland permit has already been issued for the pipeline work and no impacts to state-listed threatened or endangered species will occur. As a result, this Sitewide Part 182 permit does not include the outfall pipe. In addition, USFWS issued a Notice of Availability of an Environmental Assessment and Compatibility Determination for the STAMP Right-of-Way Permit at Iroquois National Wildlife Refuge on January 16, 2020, to obtain comments on the outfall pipe. Afterward, a Compatibility Determination and Finding of No Significant Impact was issued by USFWS on July 27, 2020, for the outfall pipe. Therefore, the project will not have impacts on the federal refuge.

Cultural Resources:

As noted below, this action is for a Part 182 sitewide take of State-listed endangered and threatened species based on the overall conceptual development of the project. However, it does not include the construction of any specific project. Extensive archaeological investigations of the site have been performed to date and are reflected in the SEQR record noted above. To the extent any areas containing sensitive archaeological materials remain to be investigated, they will be investigated under the provisions of either the letter of resolution between DEC and the Office of Parks, Recreation and Historic Preservation (OPRHP) under the State Historic Preservation Act or the federal programmatic agreement between the US Army Corps of Engineers and OPRHP under Section 106 of the Federal Historic Preservation Act.

In addition, the Department has consulted with the Tonawanda Seneca Nation on the Part 182 permit application on March 24, 2023. Since March 2, 2023, the Department has regularly attempted to schedule a follow up meeting with TSN regarding the STAMP Sitewide Part 182 permit application. Additionally, we continue in our efforts to schedule an on-territory STAMP informational meeting.

Other Environmental Considerations:

As described above, this action is for a Part 182 sitewide take of State-listed endangered and threatened species, in particular SEOW and NOHA, based on the overall conceptual development of the STAMP site. However, it does not include the construction of any specific project. To the extent there are other, non-wildlife environmental impacts not discussed above¹, they are either addressed by GCEDC (as the lead agency) in the SEQR record noted above, or they will be considered in the review of each specific development project that comes before the Department in the

¹ Additional environmental impacts either addressed in the existing SEQR record or in the future as specific projects are developed and reviewed include, but are not limited to, impacts to water quality, freshwater wetlands, flooding, air quality, agriculture, traffic volumes & patterns, aesthetics, community character.

future. Therefore, additional topics not considered in the review of the Part 182 permit application, or this Findings Statement, will be fully considered, where applicable, as part of all new applications.

Weigh and Balance Relevant Environmental Impacts with Social, Economic, and other Considerations

Genesee County IDA d/b/a Genesee County Economic Development Center (GCEDC) in conjunction with the Genesee Gateway Local Development Corporation (GGLDC), have the goal of developing and advanced manufacturing technology campus on 1,262 acres in the Town of Alabama. The STAMP Site Master Plan as presented in the Final Generic Environmental Impact Statement (GEIS; January 2012) provided for the development of a high technology campus accommodating over 6 million square feet of advanced technology manufacturing space and related uses providing direct employment of over 9,000 people. The Project targets green-technology and advanced manufacturing companies involved in developing and manufacturing clean technology, such as semiconductor products. GCEDC has already brought the Plug Power hydrogen production facility to the STAMP site. In addition, GCEDC has entered agreements with Edwards Vacuum, a microchip fabrication support company that makes vacuum tubes for microchip manufacture.

Economic and social considerations include the jobs and economic benefits that will be brought to Genesee County, and surrounding Counties including the metropolitan areas of Buffalo and Rochester. These economic and social considerations for this project are significant and have been taken considered by New York State in balancing the relevant environmental impacts and other essential considerations for the project.

CERTIFICATION OF FINDINGS TO APPROVE/FUND/UNDERTAKE

Having considered the Draft and Final EIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met.
2. Consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.
3. (and, if applicable) Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

New York State Department of Environmental Conservation

Signature:

Thomas P. Haley, Regional Permit Administrator
NYSDEC Region 8
Avon, NY 14414

Date: 07/17/2023

Distribution:

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