

BME | ASSOCIATES

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August 20, 2015

Town Board
Town of Tyre
1907 West Tyre Road
Seneca Falls, NY 13148-9730

**Re: Lago Resort & Casino
EAF Part I Clarification**

2392A

Dear Board Members:

On July 16, 2015, BME Associates submitted, on behalf of Lago Resort & Casino, LLC, a Development Plan and an Amended and Restated Site Plan, relative to the Lago Resort & Casino for the Town Board's consideration. At that time, BME Associates also provided the Town Board with the previously filed SEQRA Full Environmental Assessment Form (EAF) Part 1, together with an updated SEQRA Full EAF Part 1 reflecting the current site conditions. On August 10, 2015, the firm of Akin Gump Strauss Hauer & Feld, LLP (Akin Gump), submitted Comments to the Town Board of the Town of Tyre Regarding the Proposed Lago Resort and Casino that raised several questions regarding Part 1 of the updated FEAF. In response to the questions raised in the Akin Gump submission of August 10, 2015 BME Associates submits the following responses for purposes of clarifying the answers contained in the updated Part 1 FEAF submitted by the applicant with the application of July 16, 2015:

C.4.d – What parks will serve the site?

Akin Gump: Wilmot failed to include Seneca Meadows Wetland Preserve.

Response: The Seneca Meadows Wetland Preserve is added to the list and is located approximately 2.6 miles to the south.

D.1.g.i – Does the proposed action include new non-residential construction?

Akin Gump: There will be multiple structures, including hotel/garage/casino; central plant and day care center.

Response: There is one (1) main structure, the Casino/Hotel/Garage. The central plant and day care are two (2) additional structures ancillary to the main Casino complex. All proposed structures are accurately depicted on the plans submitted to the Town.

D.2.b.i – Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach, or adjacent area?

Akin Gump: Response should be “Yes”; See D.2.b.ii below.

Response: The question is answered correctly as “No”. All existing wetlands listed in the Preliminary Jurisdictional Determination Letter from the Department of the Army Corps of Engineers (dated 12-8-14), and the New York State Department of Environmental Conservation Freshwater Wetlands Determination (dated September 19, 2014), are being avoided and protected, and will remain in their undisturbed condition. Stormwater runoff from the proposed action is collected and conveyed to onsite stormwater management practices as described in the project Stormwater Pollution Protection Plan (SWPPP).

D.2.b.ii – Describe how proposed action would affect that waterbody or wetland?

Akin Gump: Discharge will encroach upon off-site wetland; one onsite wetland was removed (“Wetland X”); and remaining on site wetlands isolated.

Response: See response to D.2.b.i above, which answer renders the remaining questions in this section (D.2.b) N/A.

D.2.b.iii – Will proposed active cause or result in disturbance to bottom sediments?

Akin Gump: High-volume sediment-laden discharges from site will disturb sediments in off-site wetland and White Brook.

Response: See response to D.2.b.i above, which answer renders the remaining questions in this section (D.2.b) N/A.

D.2.b.iv – Will proposed action cause or result in destruction or removal of aquatic vegetation?

Akin Gump: Wilmot has removed aquatic vegetation associated with Wetland X that Wilmot removed during site work.

Response: See response to D.2.b.i above, which answer renders the remaining questions in this section (D.2.b) N/A.

D.2.e.iii – Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

Akin Gump: Stormwater is also being directed to the off-site wetland connected to White Brook.

Response: **The response provided in the updated Part I FEAF submitted by the applicant with the application of July 16, 2015 is correct, and consistent with the guidance provided in the EAF Workbook. Stormwater runoff as a result of the proposed action will be collected and directed to several onsite stormwater management facilities as identified in the project SWPPP. Onsite stormwater runoff will be detained and released at controlled rates that do not exceed pre-development rates. After treatment and detention within the onsite facilities, the discharge runoff will flow along pre-construction flow paths toward an off-site NYS wetland (to the north) and White Brook (onsite, to the east).**

D.2.k.i – Estimate annual electricity demand during operation of proposed action.

Akin Gump: Response must be provided in order for Town to make significance determination.

Response: **Estimated annual average diversified demand = 4.422 MW.**

D.2.k.iii – Will the proposed action require a new, or upgrade to, an existing substation?

Akin Gump: Response must be provided in order for Town to make significance determination.

Response: **No, per a letter from NYSEG dated July 31, 2015.**

D.2.m.i – Noise- Provide details including sources, time of day and duration:

Akin Gump: Wilmot failed to address noise during operations; statement that construction noise is “similar to farm equipment” underestimates noise impacts.

Response: **The question was answered as outlined in D.2.m.i relative to construction, which as identified in the EAF Workbook is a temporary issue. During operation of the facility, ambient noise levels will be similar to existing due to the proximity of the NYS Thruway. A comparative noise study was completed to address this matter and is part of the record.**

D.2.m.ii – Will proposed action remove existing natural barriers that could act as a noise barrier or screen?

Akin Gump: Response should be Yes; Wilmot is removing stands of trees that act as a noise barrier.

Response: This question was answered correctly as “No”. Existing perimeter trees and vegetation along the northern property boundaries were preserved to provide a natural barrier to noise and light for adjacent property owners, which was reviewed in detail with the Town of Tyre as part of site plan review. Internal hedgerows separating the pre-development farm fields were removed to allow for grading of the property. The Casino/Hotel building will also act as a noise barrier to the nearest receptors to the property.

D.2.n.i – Will proposed action have outdoor lighting? Describe source(s), location (s), height of fixtures(s), direction/aim, and proximity to nearest occupied structures:

Akin Gump: Wilmot failed to address lighting associated with signage. In addition, the response does not appear to be a complete characterization of the outdoor lighting. Renderings of the site show lighting strips along the top of the 6-story buildings, a large lit canopy at the hotel entrance, illuminated signs on the building façade, and lighting directed toward ornamentals fountains, trees and building facades.

Response: The question was answered in full as outlined in D.2.n.i.

D.2.n.ii – Will proposed action remove existing barriers that could act as light barriers or screen?

Akin Gump: FEAF fails to address the fact that parking areas and driveways will be located only 30 to 70 feet from the adjacent, agriculturally zoned properties, which will require that natural light barriers be removed. Pull-in parking spaces and driveways are directed so that headlights will shine onto the adjacent land.

Response: The question was answered clearly by the applicant. Existing perimeter trees and vegetation along the northern property boundaries were preserved to provide a natural barrier to noise and light for adjacent property owners. Supplemental evergreen plantings are also proposed for the northeast property line to augment existing screening. Internal hedgerows separating the pre-existing farm fields were removed to allow for grading of the property. The adjacent lands are predominantly agricultural fields and regulated wetlands with the nearest residence located +/- 600’ north of the entrance and +/- 850’ from the nearest parking space.

E.1.b. – Land uses and cover types on the project site

Akin Gump: Prior to Wilmot site work, project site included significant agricultural acreage; Wilmot failed to include the family cemetery as an existing land use.

Response: The land uses listed reflect the site under its current conditions (July 16, 2015 date of updated EAF). The EAF Part I, dated March 17, 2014, and submitted to the Town of Tyre identified the land uses prior to construction. The burial area is not a land use but a site feature, and is addressed in full by the applicant.

E.2.h.iv – For each identified regulated wetland and waterbody on the project site, provide the following information:

Akin Gump: This response appears incomplete.

Response: NYS wetlands total is 8.13 acres and ACOE wetlands total is .46 acres. No change in the wetland acreage on the property is proposed and all wetland boundaries have been verified by the appropriate regulatory authority.

E.2.m – Identify the predominate wildlife species that occupy or use the project site.

Akin Gump: Wilmot's list is incomplete. See Response E.2.p below.

Response: The question was answered correctly by the applicant. The EAF Workbook states: "This question asks for a list of the predominant species that occupy the project site. It does not require that the applicant identify all species." The predominant species have been identified; the list is not intended to be all inclusive.

E.2.o. – Does the project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?

Akin Gump: Response should be yes; Site contains suitable habitat for Federally-protected Indiana bat and Northern long-eared bat.

Response: The NYSDEC EAF mapper indicates "No" for this question. This is consistent with available information.

E.2.p. – Does the project site contain any species of plant or animal that is listed by NYS as a species of special concern?

Akin Gump: Data from the USGS Breeding Bird Survey (BBS), the New York Breeding Atlas (NYBBA) for the general area document the occurrence of more than 40 bird species in the area, 3 of which are listed by NYSDEC as species of concern. Based on habitat conditions at the Project site, 33 of the species documented by the BBS and NYBBA would be expected to occur at the site during all or parts of the year.

Response: The NYSDEC mapper indicates “No” for the above. This is consistent with available information.

The above information provides the clarification requested concerning the responses provided in the EAF Part I submitted on July 16, 2015. Please contact our office if any further clarification is needed.

Sincerely,

BME ASSOCIATES



Michael A. Simon

MAS:jgc

c: Lago Resort & Casino LLP