

**Town of Tyre  
Lago Resort and Casino  
September 29, 2015**

**Correspondence between Town of Tyre Town Board and  
SEQR Involved and Interested Agencies**

**Exhibit A    Involved Agencies**

- 1     NYS Department of Environmental Conservation, Region 8  
      July 20, 2015 Bond letter  
      August 11, 2015 DEC email  
      August 14, 2015 BME email  
      August 18, 2015 DEC letter  
      September 3, 2015 Bond letter  
      September 14, 2015 Bond letter  
      September 14, 2015 DEC email
  
- 2     NYS Department of Transportation  
      July 20, 2015 Bond letter  
      August 6, 2015 DOT letter  
      September 3, 2015 Bond letter  
      September 21, 2015 DOT letter  
      September 24, 2015 Bond letter  
      September 24, 2015 McFarland Johnson letter  
      September 29, 2015 DOT letter
  
- 3     NYS Thruway Authority  
      July 20, 2015 Bond letter  
      August 14, 2015 Thruway Authority letter  
      September 3, 2015 Bond letter  
      September 24, 2015 Bond letter
  
- 4     NYS Gaming Commission  
      July 20, 2015 Bond letter  
      September 3, 2015 Bond letter
  
- 5     Seneca County Department of Health  
      July 20, 2015 Bond letter  
      July 22, 2015 Seneca County DOH Signed Consent to Lead Agency  
      September 3, 2015 Bond letter
  
- 6     Seneca County Industrial Development Agency  
      July 20, 2015 Bond letter  
      July 23, 2015 Seneca County IDA letter  
      September 3, 2015 Bond letter

- 7 Town of Seneca Falls  
July 20, 2015 Bond letter  
August 4, 2015 Seneca Falls Signed Consent to Lead Agency  
September 3, 2015 Bond letter
- 8 Village of Waterloo  
July 20, 2015 Bond letter  
July 21, 2015 Waterloo Signed Consent to Lead Agency  
September 3, 2015 Bond letter

**Exhibit B Interested Agencies**

- 1 Cayuga County Legislature  
July 24, 2015 Bond letter
- 2 Montezuma National Wildlife Refuge  
July 24, 2015 Bond Letter  
August 7, 2015 Montezuma NWR email
- 3 NYS Department of Agriculture and Markets  
July 24, 2015 Bond letter
- 4 NYS Gaming Facility Location Board  
July 24, 2015 Bond letter
- 5 NYS Office of Parks, Recreation and Historic Preservation  
July 24, 2015 Bond letter  
August 7, 2015 OPRHP Historic/Cultural Resources Comments  
August 14, 2015 Barton & Loguidice email  
August 20, 2015 Barton & Loguidice email  
September 2, 2015 BME letter  
September 15, 2015 Harris Beach email  
September 15, 2015 Harris Beach email
- 6 Seneca County Board of Supervisors  
July 24, 2015 Bond letter
- 7 Seneca County Planner  
July 24, 2015 Bond letter
- 8 Seneca Meadows Wetland Preserve  
July 24, 2015 Bond letter
- 9 Town of Aurelius  
July 24, 2015 Bond letter
- 10 Town of Galen  
July 24, 2015 Bond letter

- 11 Town of Junius  
July 24, 2015 Bond letter
- 12 Town of Montezuma  
July 24, 2015 Bond letter
- 13 Town of Savannah  
July 24, 2015 Bond letter
- 14 Town of Seneca Falls  
July 24, 2015 Bond letter
- 15 Town of Tyre Planning Board  
July 24, 2015 Bond Letter
- 16 Town of Tyre Zoning Board of Appeals  
July 24, 2015 Bond letter
- 17 Town of Waterloo  
July 24, 2015 Bond letter
- 18 Wayne County Board of Supervisors  
July 24, 2015 Bond letter
- 19 US Army Corps of Engineers, Buffalo District  
July 24, 2015 Bond letter  
August 14, 2015 USACE email
- 20 US Fish and Wildlife Service, NY Field Office  
July 24, 2015 Bond Letter  
August 11, 2015 USFWS letter  
September 3, 2015 BME letter  
September 10, 2015 Bond letter

EXHIBIT A

EXHIBIT A-1

July 20, 2015

**BY HAND DELIVERY**

Mr. Scott Sheeley  
Regional Permit Administrator  
NYS Department of Environmental Conservation  
Region 8  
6274 E. Avon-Lima Road  
Avon, NY 14414-9519

Re: *SEQRA Coordination*  
*Town of Tyre Planned Unit Development District Creation*  
*Proposed Lago Casino and Resort*

Dear Mr. Sheeley:

Our firm represents the Town of Tyre (the "Town") in connection with its review of an application submitted to the Town Board on July 16, 2015 by Lago Resort & Casino, LLC (the "Applicant") to create a Planned Unit Development ("PUD") District in the Town for the construction of the Lago Casino and Resort (the "Project"). We provide this letter on behalf of the Town Board.

The Project is proposed to be constructed on an 83.4 acre parcel on the east side of State Route 414, immediately north of the New York State Thruway at Exit 41 in the Town of Tyre, New York, Seneca County. The Project is a "Type I" action pursuant to the State Environmental Quality Review Act ("SEQRA") and its implementing regulations set forth at 6 NYCRR Part 617. We write to reconfirm your agency's consent to the Town continuing to serve as lead agency and to request any comments you may have regarding the Project.

**Background**

In 2014, the Town Board reviewed the potential environmental impacts associated with the Project pursuant to SEQRA, as well as the PUD District Application, the proposed Development Plan, and the originally proposed Site Plan for the Project. In March 2014, the Town Board was installed as lead agency for the Project. On June 12, 2014, the Town Board concluded that the Project would not cause any significant adverse environmental impacts, and accordingly, issued a negative declaration of significance by resolution. At the same meeting, the Town Board passed separate resolutions which respectively approved the Development Plan, adopted Local Law No. 3 of 2014 to amend the Town Zoning Map to create a PUD district for the Project, approved the Site Plan, and approved the Host Community Agreement (the "June 12, 2014 Approvals").

A proceeding was brought under NY CPLR Article 78 to challenge the June 12, 2014 Approvals, and on appeal the court annulled the Town Board's negative declaration and vacated all related

Mr. Scott Sheeley  
July 20, 2015  
Page 2

resolutions on the ground that its SEQRA review was incomplete because the Town Board did not formally adopt by resolution the "Reasons Supporting the Determination of Significance in Part 3 of the Full Environmental Assessment Form" as part of its negative declaration. The Town Board as lead agency intends to complete the SEQRA review of the Project and review the related applications for approvals before it.

#### July 16, 2015 PUD District Application

The July 16, 2015 submittal included a Planned Unit Development ("PUD") District Application, a modified Development Plan, a modified Site Plan Application, Part 1 of a Full Environmental Assessment Form ("FEAF") dated March 17, 2014, an updated Part 1 FEAF dated July 15, 2015 reflecting currently proposed project features, and supporting documentation, all related to the proposed Project. Also, a proposed Local Law No. 5 of 2015 that would amend the Town of Tyre Zoning Law ("Town Zoning Law") to add certain definitions to the Town Zoning Law and establish a PUD district for the Lago Resort and Casino was introduced to the Town Board at its July 16, 2015 meeting. This proposed local law is identical in form and substance to the local law adopted in 2014, but annulled as a result of the ruling of the appellate court. The elements of the PUD District Application are substantially similar to those reviewed in 2014, however, with some modifications.

Copies of these documents are enclosed for your agency's review and comment. As proposed, the Project involves the construction of a 210,640+/- square foot casino with support services and restaurants, a 208 room hotel with guest rooms, meeting rooms and a pool area, and a 4-story parking garage with parking for 790 +/- vehicles, as well outdoor surface parking for 2,400 +/- vehicles.

The Town Board is also considering a proposed Host Community Agreement relating to the Project that would be entered into between the Town of Tyre and the Project developer.

Other materials relating to the Project are available for review at the Seneca Falls Public Library and at the Town of Tyre Town Clerk's Office at 636 Sutterby Rd., Seneca Falls, NY 13148 during normal business hours. To the extent practicable, Project materials will also be available for review on the Town's website at [www.tyreny.com](http://www.tyreny.com)

The Town desires to undertake a coordinated review under SEQRA of the PUD District Application with all involved agencies. The Town Board has been serving as lead agency for the Project since March 2014. By Resolution adopted on July 16, 2015, the Town Board stated its intention to continue to act as lead agency for purposes of carrying out the SEQRA process. We, therefore, request that you indicate your agency's continued consent to the Town serving as lead agency on the attached page, and return it to Bond, Schoeneck & King, PLLC. The lead agency must be agreed upon within 30 calendar days of the date of the Town's receipt of the FEAF, that is, on or before **August 19, 2015**, and therefore, we request your agency's response by this date. Please provide your reply in the envelope enclosed or by fax to me at (315) 218-8100 or by e-mail to [vrobbins@bsk.com](mailto:vrobbins@bsk.com). If we do not receive a reply from you by August 19, 2015, the Town Board will consider your agency to have no objections to the Town Board serving as lead agency for the Project review.

Mr. Scott Sheeley  
July 20, 2015  
Page 3

Additionally, we respectfully request that you provide written comments on the potential environmental impacts of the proposed Project based on the information provided to date on or before August 19, 2015 to the Town Engineer, Adam Cummings, at Barton & Loguidice, D.P.C., 11 Centre Park, Suite 203, Rochester NY 14614, or at the electronic address [tyre.public.comments@bartonandloguidice.com](mailto:tyre.public.comments@bartonandloguidice.com).

Written comments may also be provided directly to me at the following mailing address:

Virginia C. Robbins, Esq.  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202

or at my email address: [vrobbs@bsk.com](mailto:vrobbs@bsk.com)

If you have any questions, please call me, or Town Supervisor Ronald McGreevy at (315) 568-2600. Thank you in advance for your time and consideration.

Sincerely,

BOND, SCHOENECK & KING, PLLC



Virginia C. Robbins

Enclosures

cc: Hon. Ronald F. McGreevy (without enclosures)



**Consent to Town of Tyre Town Board Serving as Lead Agency  
Lago Resort and Casino Project**

The NYS Department of Environmental Conservation consents to the Town of Tyre Town Board serving as lead agency for the purpose of a coordinated review under the State Environmental Quality Review Act with respect to the proposed project to create a Planned Unit Development ("PUD") District in the Town of Tyre for the construction of the Lago Casino and Resort.

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Dated

Please return by **August 19, 2015** to:

Virginia C. Robbins, Esq.  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202  
Fax: 315-218-8100  
[vrobbs@bsk.com](mailto:vrobbs@bsk.com)

## Robbins, Virginia

---

**From:** Haley, Thomas P (DEC) <thomas.haley@dec.ny.gov>  
**Sent:** Tuesday, August 11, 2015 9:49 AM  
**To:** Martin Janda  
**Cc:** Robbins, Virginia  
**Subject:** Lago Resort & Casino

Martin:

Not sure if you are the appropriate contact but I thought I would start with you. As you likely know, the Town of Tyre has to go back through the SEQR process for the proposed casino. As a result we are participating in the SEQR Lead Agency review process. Since the last time we participated in the SEQR lead agency coordination process there have been a few developments that we will need to address to fulfill our state agency role.

1. In the Town's meeting minutes there was a mention that the parking lot layout had to be revised to avoid impacts to a burial ground. Please forward any survey work or information that you have related to this burial ground so we can coordinate with OPRHP. I do not believe they considered this in their original review and resulting May 16, 2014 No Impact letter. I will be coordinating with Nancy Herter, OPRHP.
2. I believe most of the required land clearing is complete but we would need to consider the potential impacts on the recently federally and state listed long-eared bat. Can you please provide the current status of the site and describe any vegetation clearing which remains? If you have any correspondence from USFW related to this please forward as well.

**Tom Haley**

Deputy Regional Permit Administrator

**New York State Department of Environmental Conservation, Region 8**

6274 East Avon-Lima Rd., Avon, NY 14414

P: (585) 226-5393 | F: (585) 226-2830 | [thomas.haley@dec.ny.gov](mailto:thomas.haley@dec.ny.gov)

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



## Robbins, Virginia

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**From:** Peter Vars <PVars@bmepec.com>  
**Sent:** Friday, August 14, 2015 3:06 PM  
**To:** Haley, Thomas P (DEC)  
**Cc:** Robbins, Virginia; Mike Simon; John A. Mancuso (jmancuso@HarrisBeach.com); Martin Janda  
**Subject:** RE: Lago Resort & Casino Lead Agency Designation  
**Attachments:** OPRHP Ltr.pdf

Tom:

As a follow-up to our phone conversation yesterday, we provide you the following information in response to your two questions that you posed. The responses are provided below in the body of your original email.

Please let us know if you require any other information prior to you issuing your letter acknowledging the Tyre Town Board as lead agency.

Thank you for your time on this matter.

Peter G. Vars, P.E.  
President  
**BME|ASSOCIATES**  
10 Lift Bridge Lane East  
Fairport, NY 14450  
(585) 377-7360 Phone  
(585) 377-7309 Fax  
[pvars@bmepec.com](mailto:pvars@bmepec.com)

Think Green. Please consider the environment and print this message only if necessary

**From:** Haley, Thomas P (DEC) [<mailto:thomas.haley@dec.ny.gov>]  
**Sent:** Tuesday, August 11, 2015 9:49 AM  
**To:** Martin Janda <[MJanda@bmepec.com](mailto:MJanda@bmepec.com)>  
**Cc:** [vrobbs@bsk.com](mailto:vrobbs@bsk.com)  
**Subject:** Lago Resort & Casino

Martin:

Not sure if you are the appropriate contact but I thought I would start with you. As you likely know, the Town of Tyre has to go back through the SEQR process for the proposed casino. As a result we are participating in the SEQR Lead Agency review process. Since the last time we participated in the SEQR lead agency coordination process there have been a few developments that we will need to address to fulfill our state agency role.

1. In the Town's meeting minutes there was a mention that the parking lot layout had to be revised to avoid impacts to a burial ground. Please forward any survey work or information that you have related to this burial ground so we can coordinate with OPRHP. I do not believe they considered this in their original review and resulting May 16, 2014 No Impact letter. I will be coordinating with Nancy Herter, OPRHP.

Tom – The NYS OPRHP was contacted again by the Town of Tyre concerning this project and OPRHP issued a second letter of “no impact” dated August 7, 2015 and signed by John Bonafide, Director Technical Preservation Services Bureau of the OPRHP (copy attached).

2. I believe most of the required land clearing is complete but we would need to consider the potential impacts on the recently federally and state listed long-eared bat. Can you please provide the current status of the site and describe any vegetation clearing which remains? If you have any correspondence from USFW related to this please forward as well.

All clearing activity on the project site is complete and no further clearing is proposed or planned for the project. The clearing that took place was performed between December 2014 and February 2015, which is within the recently issued established guidelines, and there will be no impacts. In addition, the applicant has retained a consultant who has completed an acoustical survey on the project site which was performed August 7-9, 2015. This report will be provided to the lead agency for review and the consultant will also review the report findings with USFW, and this information will be provided to DEC as requested.



**Tom Haley**

Deputy Regional Permit Administrator

**New York State Department of Environmental Conservation, Region 8**

6274 East Avon-Lima Rd., Avon, NY 14414

P: (585) 226-5393 | F: (585) 226-2830 | [thomas.haley@dec.ny.gov](mailto:thomas.haley@dec.ny.gov)

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

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8  
6274 East Avon-Lima Road, Avon, NY 14414-9516  
P: (585) 226-5400 | F: (585) 226-2830  
www.dec.ny.gov



August 18, 2015

Bond, Schoeneck & King  
Attn: Virginia C. Robbins  
One Lincoln Center  
Syracuse, NY 13202

RECEIVED

AUG 24 2015

BOND, SCHOENECK & KING, PLLC

RE: Lead Agency Coordination Response  
Proposed Lago Resort and Casino  
Town of Tyre, Seneca County

Dear Ms. Robbins:

This letter responds to your July 20, 2015 communication regarding lead agency coordination for the project referenced herein, under Article 8 (State Environmental Quality Review – SEQR) of the Environmental Conservation Law and 6 NYCRR Part 617. The Department has the following interest in the project:

**Name of Action:** Lago Resort and Casino

**DEC Permits (if any):** Phase II SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002)

**DEC Contact Person:** Thomas P. Haley

**SEQR Classification:** Type I

**DEC Position:** NYSDEC has no objection to the Town of Tyre Town Board assuming lead agency status for this application.

**Comments:** See Attached

If you do not concur with the Department's position indicated above please contact this office to resolve designation of lead agency within the time allowable under Part 617.

Please feel free to contact me for further information or discussion.

Sincerely,

Thomas P. Haley  
Deputy Regional Permit Administrator

Cc: Ronald McGreevy, Supervisor – Town of Tyre  
Nancy Herter, NYS OPRHP  
Martin Janda, BME Associates  
File



Department of  
Environmental  
Conservation

**Comments:**

It should be noted that the comments listed below vary from the comments the Department shared in our April 8, 2014 lead agency coordination response because additional information has been received since then.

**Stormwater:** The proposed project requires coverage under the Department's State Pollutant Discharge Elimination System (SPDES) General Permit (GP) for Stormwater Discharges from Construction Activity. According to our Division of Water the developer had GP coverage (NYR10Y382) for the project. The contractor notified the Department that site work was being suspended until the SEQR issue was resolved. As a result, the only authorized work was that which was necessary to stabilize the site for the shutdown period. Department Division of Water staff conducted a site inspection on August 6, 2015 and found the project site to be in satisfactory compliance with the requirements and limitations as set forth in the SPDES GP.

**401 Water Quality Certification:** In the Department's April 8, 2014 lead agency response we indicated the project may require a 401 Water Quality Certification depending on the presence and impact to federally regulated wetlands. Since that time the US Army Corps of Engineers has issued a preliminary jurisdictional determination. Based on the Corps determination and information provided to the Department, the Corps of Engineers has no jurisdiction over the proposed activity so therefore a corresponding Section 401 Water Quality Certification is not required. If any changes are made to the plan, which may result in the filling of federal wetlands, the developer should provide revised plans to both the US Army Corps of Engineers and the NYSDEC to reassess this determination.

**NYS Regulated Freshwater Wetlands:** The Department's Bureau of Habitat staff have confirmed the wetland delineation and determined that the proposed project is not located within the NYS Regulated Wetland and/or Adjacent Area. As a result, no Article 24 Freshwater Wetlands permit is required.

**Endangered & Threatened Species:** Since the Department's April 8, 2014 lead agency response the Northern Long-Eared Bat has been listed as threatened under the federal Endangered Species Act. Due to its listing as a federally threatened species the Northern Long-Eared Bat becomes a state-listed threatened species as well. Based on information obtained from the applicant's consultant, BME Associates, all of the clearing activity on the project site is complete and no further clearing is proposed. The clearing that did take place was performed between December 2014 and February 2015, which is within the recently issued clearing guidelines. The consultant also indicated that an acoustical survey was conducted from August 7<sup>th</sup> through August 9<sup>th</sup> of this year according to Peter Vars, BME Associates. A copy of the survey report will be provided to the Town Board and the NYSDEC. The Department will review this report and recommends the Town consider the report's findings in your review.

**Cultural Resources:** In reviewing the Town Board's meeting minutes we noticed a reference to the presence of a burial ground in the vicinity of the proposed parking lot. Additionally, the

parking lot had been redesigned in the latest submission such that it surrounds the burial grounds. During the Department's initial review of the project we coordinated with Nancy Herter, NYS Office of Parks, Recreation and Historic Preservation (OPRHP). Nancy indicated that Parks was unaware of the presence of a burial grounds/cemetery at the time of their No Impact determination. Based on August 18, 2015 phone conversation and email exchange with Nancy Herter, OPRHP does have concerns over the protection of the burial grounds. Additionally, Parks has indicated that they would like the opportunity to review and provide comments on the Phase 1A Cultural Resources Investigation Report and a protection plan for the burial grounds/cemetery.

By copy of this letter we request that the project sponsor provide the Department with copies of further correspondence or reports related to cultural resources.

September 3, 2015

**OVERNIGHT DELIVERY**

Patrick Hoehn, P.E.  
Acting Division Director  
NYS Thruway Authority  
290 Elwood Davis Road  
Suite 250  
Liverpool, NY 13088

Mr. Thomas E. Scoles  
Principal Sanitarian  
Seneca County Department of Health  
31 Thurber Drive  
Waterloo, NY 13165

Hon. Theodore H. Young  
Village of Waterloo, Mayor  
41 West Main Street  
Waterloo, NY 13165

Hon. Donald W. Earle  
Town of Seneca Falls, Supervisor  
81 West Bayard Street  
Seneca Falls, NY 13148

Ms. Gail Thorpe  
New York State Gaming Commission  
One Broadway Center  
Schenectady, NY 12305

Mr. Robert J. Aronson  
Executive Director  
Seneca County Industrial Development Agency  
One DiPronio Drive  
Waterloo, NY 13165

Mr. Thomas P. Haley  
Deputy Regional Permit Administrator  
NYS Dept. of Environmental Conservation  
Region 8  
6274 E. Avon-Lima Road  
Avon, NY 14414-9519

John G. Reichert, P.E.  
Civil Engineer II  
NYS Dept. of Transportation  
50 Wolf Road  
Albany, NY 12232

Re: *SEQRA Review – Town of Tyre, Seneca County*  
*Update on Proposed Lago Resort and Casino Project*

Dear Sir or Madam:

This is to follow up on our earlier letter to your agency dated July 20, 2015 regarding the Lago Resort and Casino project (formerly the Wilmot Casino and Resort) (the "Project") proposed to be located on an 84.95-acre parcel located in the Town of Tyre (the "Town") in the area east of New York State Route 414 and north of the New York State Thruway (Tax Account No. 12.00-01-36). We wrote on behalf of the Town Board for the Town of Tyre (the "Town Board") to inform you, as an involved agency, about the status of the SEQRA review for the Project.