

# Town of Tyre

## State Environmental Quality Review Act Lago Resort and Casino Proposal

### Review of Potential Impacts

#### Parts 2 and 3 of the Full Environmental Assessment Form

##### Introduction

The Tyre Town Board (the “Board”) must review the Full Environmental Assessment Form (“FEAF”), which includes Part 1 provided by the Applicant and Parts 2 and 3, together with all the supplemental information provided by the Applicant, the public, and the Town’s Engineer,<sup>1</sup> and decide whether the proposal to construct a resort and casino in the Town (the “Project”) is likely to have a “significant adverse impact upon the environment.” SEQRA requires the approving agency to identify and assess the potential impacts of a proposed action “in order to avoid or reduce significant adverse environmental impacts while meeting the social and economic needs of a community.”<sup>2</sup> Completing Part 2 of the FEAF will help the Board identify those topics that need to be discussed further in Part 3. Together, Parts 2 and 3 assist the Board in making its determination of environmental significance. If the Board finds that the Project will result in one or more impacts that are both “significant” and “adverse,” then it must issue a positive declaration identifying the significant adverse impacts and requiring the preparation of an Environmental Impact Statement (“EIS”). If the Board finds that the Project will have no significant adverse impacts on the environment, no EIS is necessary and a negative declaration must be prepared.

##### Part 2 Analysis

Part 2 is designed to help the Board, as lead agency, inventory all potential resources that could be affected by the Project and assess whether there are any potential adverse impacts that need further consideration.

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<sup>1</sup> The SEQRA Workbook makes it clear that the Board may consider any information submitted by the Applicant as part of the Application. The Workbook also indicates that the Board may request clarification or expansion of information submitted in Part 1 in order to complete Parts 2 and 3.

<sup>2</sup> NYSDEC, Local Official’s Guide to SEQRA, <http://www.dec.ny.gov/permits/36860.html>, accessed 9/8/2015.

Specifically, Part 2 is designed to assist the Board in determining whether any identified impacts will have no impact or a small impact, or a moderate to large impact. This decision should be based on the magnitude of the potential impact. Magnitude is not just the physical size of the project, but also depends on the scale,<sup>3</sup> context<sup>4</sup> and severity of a project's potential impacts. Interpretation on the size or significance of an impact is at the discretion of the Board as the lead agency.

### Part 3 Analysis

For each impact in Part 2 that the Board identifies as moderate to large, the Board must undertake further analysis in Part 3 to determine whether those impacts are both significant and adverse and require further study.

Specifically, in Part 3, the Board must discuss for each potential moderate to large impact the magnitude, duration of impact, likelihood of the impact and importance of the impact in the context of the site and the community. Part 3 is also the place where the Board may identify whether the Project includes aspects or design features that lessen an impact to the point where it is no longer a significant concern.

- **Magnitude** assesses factors such as severity, size or extent of an impact. Magnitude is conveyed as moderate to large. Moderate impacts tend to be more localized. Large impacts tend to be broader and of regional concern.
- **Duration** looks at how long the impact will occur. Duration is assessed as short-term, medium-term, long-term or irreversible.
- **Likelihood** measures the probability of an impact occurring. Likelihood involves determining whether the impact is unlikely to occur, will possibly occur or will probably occur.
- **Importance** relates to how people or resources will be qualitatively impacted in the context of the status quo conditions in the community and the environment. Importance is more subjective and is based on a consideration of the magnitude, duration, likelihood, environmental setting and on the scale and context of the project, the site and the community.

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<sup>3</sup> Scale refers to the overall size of the project and features that measure the intensity of the project.

<sup>4</sup> Context refers to the conditions on the project site and its relation to adjacent parcels, the neighborhood, and the community as a whole.

Example

For each potential impact, there are combinations of magnitude, duration and likelihood. However, there is no universally accepted measure of significance – the criteria must be considered on a case-by-case basis. The SEQRA Handbook published by the New York State Department of Environmental Conservation provides the following example to illustrate the process an agency must use when evaluating the above factors:

“A bridge is proposed to cross a river. Potential erosion during construction could be large in magnitude. If the stream into which the eroded soil would fall is presently a relatively "muddy" stream, already carrying large quantities of sediment, the addition of such a temporary load during construction would likely not be important. However, if the same amount of material were to wash into a clear trout stream, particularly during or immediately following spawning, or to settle downstream in a productive wetland, this impact should be viewed as more important because of the high value of the wetland and trout stream resources.”

**I. Impacts on Surface Water (page 2 of Part 2 of FEAF): The proposed action may affect one or more wetlands or other surface water bodies.**

**A. Part 2, Section 3, Item a – “The proposed action may create a new water body.”**

1. Relevant Project Information:

- a) The Project will create two new water bodies in the form of two stormwater detention facilities, also called stormwater management facilities (“SWMF’s”).
- b) Purpose of the ponds: The purpose of the ponds is to mitigate, or eliminate, stormwater impacts that would otherwise result from the Project. The ponds are required pursuant to a stormwater pollution prevention plan (“SWPPP”) prepared by the Applicant in compliance with all relevant United States Environmental Protection Agency (“USEPA”) and New York State Department of Environmental Conservation (“NYSDEC”) regulations and guidelines related to stormwater management for projects of this size. NYSDEC has reviewed and approved the SWPPP.
- c) Description of Ponds: The two ponds have been constructed and are located in the northwest corner and eastern portion of the site respectively. The ponds will be able to hold approximately 0.78 million cubic feet (5.5 million gallons) of water and have a surface area of approximately 2.7 acres. The dimensions of the proposed impounding structures will be approximately 8 feet deep and 450 feet long and 6.5 feet deep and 300 feet long, respectively. The ponds will include outlet structures designed to control the rate at which runoff is discharged from the site. The ponds will have sufficient storage volume to mitigate a 100-year storm as required by DEC guidelines. The ponds are too small to provide significant habitat for eagles or other migratory birds.

- d) Description of the (“SWMFs”): The development of the Project site includes the installation of a collection system to convey stormwater runoff from the developed areas to the stormwater management facilities, which include the two ponds several underground infiltration chamber systems, the largest of which is located north of the parking garage, and several Green Infrastructure bioretention areas. The intent of these stormwater quality and quantity control measures is to replicate the pre-construction infiltration, peak runoff flow, discharge volume, as well as minimization of concentrated flow by using runoff control techniques to provide treatment in a distributed manner before runoff reaches offsite discharge locations.

The two ponds have been designed as wet ponds that detain runoff for an extended period of time to allow for sediment settling and pollutant removal. The underground infiltration chamber system located north of the garage will allow stormwater to infiltrate into the soil and for larger storm events the chamber system will release excess runoff at a controlled rate. Each of these facilities will control the discharge from the project site, ensuring that runoff rates downstream of the development meet the design criteria relative to quantity controls, overbank flood protection and extreme storm protection.

The stormwater management plan also includes features to satisfy water quality control requirements that will be discussed in connection with questions that follow.

2. Relevant Public Comment: One commenter noted that the ponds would be a breeding ground for mosquitos.
3. Item identified as:
  - No impact
  - Potential small impact

Potential moderate to large impact

4. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 3, Item b** – “The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.”

1. Relevant Project Information: The Project does not involve an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**C. Part 2, Section 3, Item c** – “The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.”

1. Relevant Project Information: The Project does not involve dredging more than 100 cubic yards of material from a wetland or water body.

2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**D. Part 2, Section 3, Item d** – “The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.”

1. There are six freshwater wetlands within the Project site. However, the Applicant has designed the Project in a way that avoids the wetland areas, as well as any applicable buffer areas (NYS wetlands only).
  - a) Relevant Project Information
    - (1) Three wetland areas on the westerly portion of the site totaling 0.49 acres are federal wetlands subject to the jurisdiction of the Army Corps of Engineers.
    - (2) Three wetland areas on the easterly portion of the site totaling 8.13 acres are subject to the jurisdiction of the Army Corps of Engineers and the New York State Department of Environmental Conservation.
    - (3) None of these wetland areas will be disturbed by the Project.
    - (4) As part of its SWPPP, the Applicant has placed silt fencing around the wetlands during construction activities to avoid siltation.

b) Relevant Public Comments

- (1) Several comments, including those submitted by Akin Gump, suggest that the Applicant failed to identify a seventh wetland, which they denote as "Wetland X."
- (2) Several comments, including those submitted by Akin Gump, allege that the Applicant filled an additional unidentified wetland, which they denote as "Wetland X," in violation of the Clean Water Act.

c) Key Considerations

- (1) The US Army Corps of Engineers (Corps) and the US Environmental Protection Agency define wetlands as follows: "Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions."
- (2) The Corps uses three characteristics when making wetland determinations: vegetation, soil, and hydrology. Wetland indicators of all three characteristics must be present during some portion of the growing season for an area to be a wetland.
- (3) Hydrophytic vegetation is any plant that occurs in wetlands. The list of plant types that qualify as hydrophytic vegetation is listed in regional publications of the US Fish and Wildlife Service.
- (4) There are approximately 2,000 named soils in the United States that may occur in wetlands. Such soils, called hydric soils, have characteristics that indicate they were developed in conditions where soil oxygen is limited by the presence of saturated soil for

long periods during the growing season. The Natural Resource Conservation Service (NRCS) maintains a list of soil types likely to be hydric. Ovid silt loam, which is the soil type located in the area of concern has a minimal probability of being a hydric soil (5 out of a scale of 100).

- (5) Wetland hydrology refers to the presence of water at or above the soil surface for a sufficient period of the year to significantly influence the plant types and soils that occur in the area.
- (6) The Applicant's consultant undertook site scoping activities described as a preliminary delineation in the fall of 2013 to identify any potential wet areas for further consideration. A wetland delineation in accordance with the Corps' manual for a delineation could not be performed at that time because the presence of vegetation indicators would be impacted by the season.
- (7) The applicant's consultant performed a wetland delineation pursuant to the Corps' manual in June 2014. The Federal Wetland Delineation Report dated July 2014 was submitted to the Corps and the NYSDEC for consideration.
- (8) The Federal Wetland Delineation Report contains wetland determination forms for several sampling points throughout the site. The sampling points were numbered and correspond to the numbered points identified on the Wetland Delineation Map (Figure 7A in the Federal Wetland Delineation Report).
- (9) One of the sampling points in the Federal Wetland Delineation Report is identified as UP8. Figure 7A in the Federal Wetland Delineation Report shows that UP8 was taken

in the area identified in the Akin Gump materials as “Wetland X.” The wetland determination form for UP8 shows that the area is wet and, therefore one of the three characteristics of a wetland – hydrology – is present, which is portrayed in aerial orthoimagery. However, the wetland determination form for UP8 shows that neither wetland vegetation nor hydric soils are present at that location.

- (10) Three species of plants were identified around UP8. The primary plant species around that location were classified as upland or facultative-upland species. The third species was classified as facultative which occurs in wet and dry areas.
- (11) The soil type around UP8 was classified as Ovid Silt Loam. NRCS maintains a database of soil types on its website. On a scale of 1 to 100, where 100 is most likely to be hydric, Ovid Silt Loam is classified as a 5, which indicates that it is not likely to be hydric.
- (12) The Corps and the NYSDEC reviewed these wetland determination forms and the corresponding Wetland Delineation Map. Following separate site inspections by both agencies, each agency concurred with the findings in the Federal Wetland Delineation Report and each agency attached the Wetland Delineation Map, which identifies UP8, to their respective jurisdictional determinations.
- (13) Therefore, the area referred to in the Akin Gump materials as “Wetland X” is not a wetland because it does not meet each of the three required characteristics.

(14) There have been no violations of the Clean Water Act as alleged because Wet Area X is not a wetland.

2. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

c) Likelihood

d) Importance

e) Key Question: Is the impact significant and adverse?

**E. Part 2, Section 3, Item e** – “The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.”

1. Construction activities on the Project Site will cause the disturbance of soils and vegetation. During periods of construction, it is possible for stormwater runoff to contain sediments that could result in turbidity in nearby waterbodies.

a) Relevant Project Information:

(1) Approximately 60 acres of the Site will be physically disturbed.

(2) Control of stormwater runoff during construction activity is regulated by NYSDEC pursuant to the SPDES General Permit for Discharges from Construction Activities.

(3) Pursuant to NYS regulations, the Applicant prepared a Storm Water Pollution Prevention Plan ("SWPPP") to control erosion and sedimentation, which was reviewed and approved by the NYSDEC.

- (4) As part of its SWPPP, the Applicant implemented (and will continue to implement) a comprehensive erosion control plan during construction to control silt runoff and provide water quality treatment both during and after construction.
- (5) The Applicant obtained a waiver from the NYSDEC to disturb more than 5-acres of soil at any one time. The 5-acre waiver letter imposed additional requirements on the Applicant with respect to inspections, control measures and communication with the regulatory agencies.

b) Relevant Public Comments:

- (1) Several commenters, including Akin Gump, alleged that construction of the Project was having an adverse impact on water quality from mud and sediment-laden stormwater runoff was purportedly streaming from the Project site onto neighboring properties.
- (2) Several commenters submitted photographs of adjoining streams before a rain event and after a rain event which show that the water was clear before the storm event and turbid (cloudy) after the storm event.
- (3) Several commenters criticized the removal of silt fence onsite.
- (4) Several commenters, including Akin Gump, alleged that photographic evidence showed a petroleum sheen on waterbodies downstream of the site.
- (5) Several commenters, including Akin Gump, claimed that the project would result in adverse impacts to the Tschache Pool, which is part of the Montezuma National Wildlife Refuge.

c) Key Considerations:

- (1) Turbidity is when water becomes muddy and has sediments suspended in it. It can occur when stormwater runoff carries eroded soils into a waterbody.
- (2) During the initial construction phase of any development project, land is cleared and graded, existing drainage areas are transformed, and the exposed area is susceptible to erosion. As a result, without proper precautions, stormwater runoff could potentially result in turbid conditions in downstream water bodies.
- (3) In connection with the approved SWPPP, various practices to control soil erosion have been implemented throughout the Site.
  - (a) The stormwater management ponds, which have been constructed, act as settling basins during and after construction. The basins will be monitored regularly and accumulated silt will be excavated as necessary. Each stormwater management pond has been undercut to allow for additional silt accumulation during construction.
  - (b) In areas where soil disturbance activity has been temporarily or permanently ceased, temporary and/or permanent soil stabilization measures are installed. The soil stabilization measures conform to the most current version of the technical standards.
  - (c) Stone check dams and silt fences are used to slow the passage of runoff and filter silt from runoff. Sediment traps and silt fence have been installed around storm sewer inlets.

- (d) Stabilized construction entrances have been utilized to minimize the tracking of sediment onto public streets.
  - (e) Street sweeping has occurred, and will occur, as necessary to clean adjacent roads during the construction process.
  - (f) Water trucks have been, and will be, used onsite to control dust.
  - (g) Barriers in the form of silt fence have been provided along limits of disturbance adjacent to the wetlands to prevent the transportation of silt into the wetlands.
  - (h) Erosion control features will be maintained and replaced as necessary throughout construction.
- (4) Pursuant to the General Permit, the applicant must inspect the site's erosion control practices twice a week. These inspections have been completed as required since the start of construction on December 26, 2014. The only exception was during the winter shut-down period from February 24, 2015 and March 11, 2015, during which time all disturbed areas were stabilized and one inspection per month was performed, as required.
- (5) Ben Groth of NYSDEC Region 8 was onsite January 15, 2015 to review perimeter erosion control measures. Following the inspection, NYSDEC issued a letter and report stating that the project site was in compliance with the General Permit.
- (6) Since construction commenced over 60 inspections have been performed and no violations were noted.

- (7) The Project site has been stabilized pursuant to regulatory requirements as a result of the temporary cessation of construction activity effective July 10, 2015.
- (8) On August 6, 2015, Mr. Groth performed an on-site SWPPP inspection. The Project site was found to be "in satisfactory compliance with the requirements and limitations as set forth in the" General Permit.
- (9) As a result of its inspection on August 6, 2015, NYSDEC required the removal of two sections of silt fencing located at the discharge points of the two stormwater ponds. According to NYSDEC, the silt fence in those locations acted as a barrier and would typically promote erosion.
- (10) The Project site is located in a 4,285± acre watershed. Stormwater runoff located in this watershed generally flows into White Brook, which flows northeastward and ultimately discharges into the Tschache Pool, part of the Montezuma National Wildlife Refuge.
- (11) The Montezuma National Wildlife Refuge is located roughly 5.5 miles via White Brook downstream from the Project Site.
- (12) Approximately 52.5% (2,250±) of the watershed is active agricultural fields. The Project Site, 84.96 acres, is approximately 2.0% of the total watershed.
- (13) Prior to its acquisition by the Applicant in late 2014, the Site contained 45 acres of active agriculture fields
- (14) Agricultural uses result in soil disturbance that can lead to erosion and sedimentation of nearby water bodies. Town Board members have reported that even prior to the development of the Project site, it was not

uncommon for off-site waterbodies, including White Brook, to become turbid (cloudy/muddy) after rain events.

- (15) The comments and photos associate pre-existing stormwater flows originating on other property upstream of the Project site and that pass through the Project site with stormwater runoff from the construction activity onsite.
- (a) The Project site accounts for 2% of the total watershed by land area, and more than 50% of the watershed is comprised of agricultural uses which disturb large areas of land and often lack erosion control measures that control the quality of stormwater runoff.
  - (b) Existing stormwater from off-site upstream sources, including a large-scale truck stop, migrates untreated through existing flow patterns under the NYS Thruway, across the Project site and leaves the Project site at its north boundary line.
  - (c) The Applicant has not modified any existing flow patterns with respect to off-site stormwater. Instead, the Applicant has provided a storm culvert to allow the existing flow to pass uninhibited through the site.

2. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**F. Part 2, Section 3, Item f** – “The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.”

- 1. Relevant Project Information: The Project does not involve the withdrawal of water from surface water. The Project will be served by public water and the appropriate municipal agencies have indicated that adequate supply is available.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**G. Part 2, Section 3, Item g** – “The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).”

- 1. Relevant Project Information: The Project does not involve the discharge of wastewater to surface water. Wastewater will be collected and transported to the existing public sewer system. The appropriate municipal agencies have indicated that adequate capacity is available.
- 2. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No
- a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**H. Part 2, Section 3, Item h** – “The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies”

1. Construction activities on the Project Site will cause the disturbance of soils and vegetation. During periods of construction, it is possible for stormwater runoff to contain sediments that could result in siltation or other degradation of nearby waterbodies.
- a) Relevant Project Information:
    - (1) Approximately 60 acres of the Site will be physically disturbed.
    - (2) Control of stormwater runoff during construction activity is regulated by NYSDEC pursuant to the SPDES General Permit for Discharges from Construction Activities.
    - (3) Pursuant to NYS regulations, the Applicant prepared a Storm Water Pollution Prevention Plan ("SWPPP") to control erosion and sedimentation, which was reviewed and approved by the NYSDEC.
    - (4) As part of its SWPPP, the Applicant implemented (and will continue to implement) a comprehensive erosion control plan during

construction to control silt runoff and provide water quality treatment both during and after construction.

- (5) The Applicant obtained a waiver from the NYSDEC to disturb more than 5-acres of soil at any one time. The 5-acre waiver letter imposed additional requirements on the Applicant with respect to inspections, control measures and communication with the regulatory agencies.

b) Relevant Public Comments:

- (1) Several commenters, including Akin Gump, alleged that construction of the Project was having an adverse impact on water quality from mud and sediment-laden stormwater runoff was purportedly streaming from the Project Site onto neighboring properties.
- (2) Several commenters submitted photographs of adjoining streams before a rain event and after a rain event which show that the water was clear before the storm event and turbid (cloudy) after the storm event.
- (3) Several commenters criticized the removal of silt fence onsite.
- (4) Several commenters, including Akin Gump, claimed that the project would result in adverse impacts to the Tschache Pool, which is part of the Montezuma National Wildlife Refuge.

c) Key Considerations:

- (1) Siltation is when water becomes muddy and has sediments suspended in it. It can occur when stormwater runoff carries eroded soils into a waterbody.
- (2) During the initial construction phase of any development project land is cleared and

graded, existing drainage areas are transformed, and the exposed area is susceptible to erosion. As a result, without proper precautions, stormwater runoff could potentially result in siltation of downstream water bodies.

- (3) In connection with the approved SWPPP, various practices to control soil erosion have been implemented throughout the Site.
  - (a) The stormwater management ponds, which have been constructed, act as settling basins during and after construction. The basins will be monitored regularly and accumulated silt will be excavated as necessary. Each stormwater management pond has been undercut to allow for additional silt accumulation during construction.
  - (b) In areas where soil disturbance activity has been temporarily or permanently ceased, temporary and/or permanent soil stabilization measures are installed. The soil stabilization measures conform to the most current version of the technical standards.
  - (c) Stone check dams and silt fence are used to slow the passage of runoff and filter silt from runoff. Sediment traps and silt fence have been installed around storm sewer inlets.
  - (d) Stabilized construction entrances have been utilized to minimize the tracking of sediment onto public streets.
  - (e) Street sweeping has occurred, and will occur, as necessary to clean adjacent roads during the construction process.

- (f) Water trucks have been, and will be, used onsite to control dust.
  - (g) Barriers in the form of silt fence have been provided along limits of disturbance adjacent to the wetlands to prevent the transportation of silt into the wetlands.
  - (h) Erosion control features will be maintained and replaced as necessary throughout construction.
- (4) Pursuant to the General Permit, the applicant must inspect the site's erosion control practices twice a week. These inspections have been completed as required since the start of construction on December 26, 2014. The only exception was during the winter shut-down period from February 24, 2015 and March 11, 2015, during which time all disturbed areas were stabilized and one inspection per month was performed, as required.
- (5) Ben Groth of NYSDEC Region 8 was onsite January 15, 2015 to review perimeter erosion control measures. Following the inspection, NYSDEC issued a letter and report stating that the Project site was in compliance with the General Permit.
- (6) Since construction commenced over 60 inspections have been performed and no violations were noted.
- (7) The Project site has been stabilized pursuant to regulatory requirements as a result of the temporary cessation of construction activity effective July 10, 2015.
- (8) On August 6, 2015, Mr. Groth performed an on-site SWPPP inspection. The Project site was found to be "in satisfactory compliance

with the requirements and limitations as set forth in the” General Permit.

- (9) As a result of its inspection on August 6, 2015, NYSDEC required the removal of two sections of silt fencing located at the discharge points of the two stormwater ponds. According to NYSDEC, the silt fence in those locations acted as a barrier and would typically promote erosion.
- (10) All site-generated runoff from the developed portion of the site is treated prior to its discharge downstream and, therefore, will not adversely impact downstream water resources.
- (11) In connection with the development, the Applicant is also installing a permanent stormwater management system in accordance with the SWPPP. A collection system will capture and direct stormwater runoff from the developed areas to the two stormwater management ponds or the underground chamber system north of the parking garage. The two stormwater management ponds have been designed as wet ponds that detain runoff for an extended period of time to allow for sediment settling and pollutant removal.
- (12) To meet water quality volume requirements, the stormwater management system also includes upstream practices to provide treatment prior to runoff entering into the stormwater management ponds and underground infiltration chamber system north of the garage.
  - (a) Six bio-retention areas, two additional underground infiltration chamber systems, dry vegetated swales, grass

filter strips, and tree plantings throughout the Project Site.

- (b) The bioretention practices will provide stormwater filtration and pollutant removal.
  - (c) The underground infiltration chamber systems, an NYSDEC-approved (BAT/BPT) available technology practice, have "Isolation Rows" that capture the "first flush" from rainfall events, which typically contains the majority of suspended solids associated with storm runoff. The isolation rows are designed to capture and detain this runoff, promoting the removal of any containment through particle settling. These rows also protect the remainder of the system from sediment, and are easily cleaned using the same methods for cleaning storm and sanitary sewer pipes.
- (13) Each of the stormwater practices has been designed in accordance with the NYSDEC guidelines as outlined in the Stormwater Design Manual, and contributes to meeting the overall water quality criteria.
  - (14) The Project site is located in a 4,285± acre watershed. Stormwater runoff located in this watershed generally flows into White Brook, which flows northeastward and ultimately discharges into the Tschache Pool, part of the Montezuma National Wildlife Refuge.
  - (15) The Montezuma National Wildlife Refuge is located roughly 5.5 miles via White Brook downstream from the Project Site.
  - (16) Approximately 52.5% (2,250± acres) of the watershed is active agricultural fields. The

Project Site, 84.96 acres, is approximately 2.0% of the total watershed.

- (17) Prior to its acquisition by the Applicant in late 2014, the site contained 45 acres of active agriculture fields
- (18) Agricultural uses result in soil disturbance that can lead to erosion and siltation of nearby water bodies. Town Board members have reported that even prior to the development of the Project site it was not uncommon for off-site waterbodies, including White Brook, to become impacted by siltation (cloudy/muddy) after rain events.
- (19) Agricultural uses within the watershed may also use herbicides and pesticides that enter the watershed through stormwater runoff.
- (20) The comments and photos associate pre-existing stormwater flows originating on other property upstream of the Project Site and that pass through the Project Site with stormwater runoff from the construction activity onsite.
  - (a) The Project Site accounts for 2% of the total watershed by land area, and more than 50% of the watershed is comprised of agricultural uses which disturb large areas of land and often lack erosion control measures that control the quality of stormwater runoff.
  - (b) Existing stormwater from off-site upstream sources, including a large-scale truck stop, migrates untreated through existing flow patterns under the NYS Thruway, across the Project Site and leaves the Project Site at its north boundary line.
  - (c) The Applicant has not modified any existing flow patterns with respect to off-

site stormwater. Instead, the Applicant has provided a storm culvert to allow the existing flow to pass uninhibited through the site.

- (21) The Applicant is implementing an Integrated Pest Management (“IPM”) Plan to maintain the lawn and landscaped areas, which will significantly reduce herbicide and pesticide laden runoff associated with the Project.

2. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

c) Likelihood

d) Importance

e) Key Question: Is the impact significant and adverse?

**I. Part 2, Section 3, Item i** – “The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.”

1. Will the increase in impervious surface on the Project Site and/or the operation of the resort and casino impact the water quality of any downstream water bodies?

a) Relevant Project Information:

(1) Approximately 38% of the Project site will be covered by impervious surfaces, leaving 62% open space.

(2) NYSDEC regulates stormwater pursuant to the SPDES General Permit for Discharges from Construction Activities.

- (3) Pursuant to NYS regulations, the Applicant prepared a Storm Water Pollution Prevention Plan ("SWPPP") to meet the water quality volume and runoff reduction volume requirements. NYSDEC reviewed and approved the Applicant's SWPPP.
- (4) As part of its SWPPP, the Applicant will install and maintain stormwater runoff management facilities to control stormwater quality and quantity. Specifically, the stormwater control measures will replicate the pre-construction infiltration, peak runoff flow, discharge volume, as well as minimization of concentrated flow by using runoff control techniques to provide treatment in a distributed manner before runoff reaches offsite discharge locations.
- (5) These controls are designed to capture, treat, and detain runoff from the developed portions of the project site, then release the runoff to downstream areas at a controlled rate which will not be increased from peak pre-development runoff rates.

b) Relevant Public Comments:

- (1) Several commenters, including Akin Gump, alleged that photographic evidence showed a petroleum sheen on waterbodies downstream of the site.
- (2) Several commenters, including Akin Gump, claimed that the project would result in adverse impacts to the Tschache Pool, which is part of the Montezuma National Wildlife Refuge.

c) Key Considerations:

- (1) Stormwater runoff is generated when precipitation from rain and snowmelt events flows over land or impervious surfaces and does not percolate into the ground. As the

runoff flows over the land or impervious surfaces (paved streets, parking lots, and building rooftops), it accumulates debris, chemicals, sediment or other pollutants that could adversely affect downstream water quality if the runoff is discharged untreated.

- (2) Control of stormwater runoff is regulated by NYSDEC which requires an applicant to install permanent stormwater management controls that ensure that there is no degradation of storm water quantity or quality. In other words, the quantity and quality of stormwater runoff should be no different post-development than pre-development.
- (3) Pursuant to NYS regulations, the Applicant was required to prepare a Storm Water Pollution Prevention Plan (“SWPPP”) to meet the overall water quantity and quality criteria required by the General Permit.
- (4) The Stormwater Pollution Prevention Plan (SWPPP) for the Project was designed, reviewed, and approved in accordance with the rules and regulations set forth in the NYSDEC Stormwater Management Design Manual (August 2010) and the NYSDEC General Permit GP-0-10-001.
- (5) As part of its SWPPP, the Applicant designed a comprehensive stormwater management plan in accordance with best management practices to meet or exceed NYSDEC Design Manual requirements for treating runoff during and after construction, including:
  - (a) Water quality volume to meet pollutant removal goals;
  - (b) Runoff reduction volume by application of Green Infrastructure practices to replicate pre-development flows;

- (c) Channel protection volume to reduce channel erosion;
  - (d) Overbank flood protection to prevent overbank flooding; and
  - (e) Extreme storm protection to help control extreme floods.
- (6) The development of the project site includes the installation of a collection system to direct stormwater runoff from the developed areas and convey it to the two stormwater management facilities (ponds) or the underground chamber system north of the parking garage.
- (a) The two stormwater management facilities (ponds) have been designed as wet ponds that detain runoff for an extended period of time to allow for sediment settling and pollutant removal.
  - (b) The underground infiltration chamber system located north of the garage will allow stormwater to infiltrate into the soil and for larger storm events the chamber system will release excess runoff at a controlled rate.
  - (c) Each of these facilities will control the discharge from the project site, ensuring that runoff rates downstream of the development meet the design criteria relative to quantity controls, overbank flood protect and extreme storm protection.
- (7) To meet water quality and runoff reduction volume requirements, the stormwater management system also includes upstream practices to provide treatment prior to runoff entering into the stormwater management

ponds and underground infiltration chamber system north of the garage.

- (a) Six bio-retention areas, two additional underground infiltration chamber systems, dry vegetated swales, grass filter strips, and tree plantings throughout the Project site.
  - (b) The bioretention practices will provide stormwater filtration and pollutant removal.
  - (c) The underground infiltration chamber systems, an NYSDEC-approved (BAT/BPT) available technology practice, have "Isolation Rows" that capture the "first flush" from rainfall events, which typically contains the majority of suspended solids associated with storm runoff. The isolation rows are designed to capture and detain this runoff, promoting the removal of any containment through particle settling. These rows also protect the remainder of the system from sediment, and are easily cleaned using the same methods for cleaning storm and sanitary sewer pipes.
- (8) NYSDEC guidance has indicated that by complying with the Design Manual and with all regulations set forth by the General Permit GP 0-10-001 that a project is complying with the U.S. Environmental Protection Agency's water quality standards.
- (9) All site-generated runoff from the developed portion of the site is treated prior to its discharge downstream in a manner that complies with the Design Manual and all regulations and, therefore, will not adversely impact downstream water resources.

- (10) The Project site is located in a 4,285± acre watershed. Stormwater runoff located in this watershed generally flows into White Brook, which flows northeastward and ultimately discharges into the Tschache Pool, part of the Montezuma National Wildlife Refuge.
- (11) The Montezuma National Wildlife Refuge is located roughly 5.5 miles via White Brook downstream from the Project Site.
- (12) Approximately 52.5% (2,250±) of the watershed is active agricultural fields. The Project Site, 84.96 acres, is approximately 2.0% of the total watershed.
- (13) Prior to its acquisition by the Applicant in late 2014, the site contained 45 acres of active agriculture fields
- (14) Agricultural uses result in pesticide and herbicide use that can lead to degradation of nearby water bodies. There are significant agricultural uses in the watershed that contribute sediments, herbicides and pesticides to the watershed.
- (15) The Applicant has committed to using an Integrated Pest Management (“IPM”) Plan to maintain the lawn and landscaped areas, which will significantly reduce herbicide and pesticide laden runoff associated with the Project.
- (16) The comments and photos associate pre-existing stormwater flows originating on other property upstream of the Project Site and that pass through the Project Site with stormwater runoff from the construction activity onsite.
  - (a) The Project Site accounts for only 2% of the total watershed by land area, and more than 50% of the watershed is comprised of agricultural uses which

disturb large areas of land, use herbicides and pesticides and often lack control measures that control the quality of stormwater runoff.

- (b) Existing stormwater from off-site upstream sources, including a large-scale truck stop, migrates untreated through existing flow patterns under the NYS Thruway, across the Project site and leaves the Project site at its north boundary line.
- (c) The Applicant has not modified any existing flow patterns with respect to off-site stormwater. Instead, the Applicant has provided a storm culvert to allow the existing flow to pass uninhibited through the site.

2. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**J. Part 2, Section 3, Item j** – “The proposed action may involve the application of pesticides or herbicides in or around any water body”

- 1. Approximately 23.7 acres of open space area will be lawn area that will need to be maintained and landscaped.
  - a) Relevant Project Information:

- (1) Approximately 23.7 acres of 84.9-acre site will be lawn area that will need to be maintained and landscaped.
  - (2) The Applicant has committed to using an Integrated Pest Management (“IPM”) Plan to maintain the lawn and landscaped areas, which will significantly reduce herbicide and pesticide laden runoff associated with the Project.
- b) Relevant Public Comments:
- (1) Several commenters expressed concerns about impacts to drinking water wells as a result of the use of pesticides and herbicides.
- c) Key Considerations:
- (1) The Project site previously contained 45+ acres of active agricultural fields that contributed herbicide and pesticide laden runoff into White Brook and the Tschache Pool of the Montezuma Wildlife Refuge.
  - (2) During prior agricultural use of site (approximately 45 acres), pesticides and herbicides were used without any management or control measures.
  - (3) Project will have approximately 23.7 acres of lawn areas that will be maintained using pesticides and herbicides (21.7 acres less than under previous agricultural use).
  - (4) The Project site is located in a 4,285+ acre watershed, of which approximately 52.5% (2,250+ acres) is active agricultural fields.
  - (5) The 2,250+ acres of agricultural lands in the watershed have no water quality controls and stormwater runoff from these lands contribute herbicide and pesticide-laden runoff into White Brook and ultimately to the Tschache Pool of the Montezuma National Wildlife Refuge.

- (6) The project site, 84.96 acres, is approximately 2.0% of the total watershed.
- (7) The project applicant has committed to using IPM Plan to maintain the lawn and landscaped areas.
- (8) According to the Food and Agriculture Organization of the United Nations, an IPM Plan involves the careful consideration of all available pest control techniques and subsequent integration of appropriate measures that discourage the development of pest populations and keep pesticides and other interventions to levels that are economically justified and reduce or minimize risks to human health and the environment. IPM encourages natural pest control mechanisms.
- (9) Implementation of the IPM Plan will minimize herbicide and pesticide contaminants in post-construction stormwater discharges.

2. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**K. Part 2, Section 3, Item k** – “The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities”

1. The Project will require upgrades to existing sanitary sewer lines.
  - a) Relevant Project Information:
    - (1) The Project will generate approximately 145,000 gpd of sanitary wastewater that will be collected and transported to the existing Seneca Falls Wastewater Treatment Facility. The appropriate municipal agencies have indicated that adequate capacity is available.
    - (2) The Project will be internally served by a private 8" PVC gravity sanitary sewer system, which will collect wastewater through a series of gravity pipes and manholes, and direct it toward the lower north side of the project site, near the northeast corner of the parking garage, into a private pump station.
    - (3) The pump station will convey wastewater via a 6" force main to the south, under the NYS Thruway and into an existing 12" sanitary sewer located adjacent to the Petro Stopping Center along the east side of NYS Route 414.
    - (4) The Project will also make off-site improvements to the sewer system, specifically, upgrading the existing Route 414 pump station, constructing an 8" force main beginning just north of the Seneca Meadows pump station (bypassing this station and its associated force main) and discharging the new 8" force main into the existing 15" gravity sewer located on Balsley Road, near the Kingdom Road Pump Station located on Route 5 & 20. just north of Route 5 & 20. Some pump and electrical upgrades will also be made at the Kingdom Road pump station. The Applicant will pay for the cost of all improvements and complete them before the Project becomes operational.

- b) Relevant Public Comment: One commenter noted that the Project would result in an increase in sewer outflows.
- c) Key Considerations:
  - (1) The project will be internally served by a private 8" PVC gravity sanitary sewer system, which will be installed through the project site to serve the principal and ancillary structures.
  - (2) Sanitary laterals will be provided to the principal structure, the central plant and the child care facility.
  - (3) A 2,600-gallon grease trap is proposed within the loading dock area, which will receive all wastewater from food services located within the principal structure prior to connecting into the 8" sanitary sewer main and being directed toward the pump station.
  - (4) In addition, it is proposed that each food service location will have individual grease traps located in the building to provide further contaminant removal. Grease traps will be sited and installed pursuant to all applicable health codes.
  - (5) Solid food waste is planned to be diverted from macerators that drain to the sewer in kitchen sinks to dedicated solid waste containers that will be taken for codigestion at a nearby farm.
  - (6) The system will collect wastewater through a series of gravity pipes and manholes, and direct it toward the lower north side of the project site, near the northeast corner of the parking garage, into a private pump station.
  - (7) The pump station will convey wastewater via a 6" force main to the south, under the NYS Thruway and into an existing 12" sanitary

- sewer located adjacent to the Petro Stopping Center along the east side of NYS Route 414.
- (8) The proposed force main will be considered and treated as a private lateral until the connection point into the public sanitary sewer.
  - (9) A memorandum was prepared by the Town Engineer, Barton & Loguidice, confirming capacity within the existing 12" gravity sanitary sewer.
  - (10) The Applicant obtained an Occupancy Permit from the NYS Thruway Authority to locate the sanitary sewer line in its right-of-way. A Use and Occupancy Permit will be sought from the New York State Department of Transportation to locate the sanitary sewer line within its right-of-way.
  - (11) The Project will also make off-site improvements to the sewer system, specifically, upgrading the existing Route 414 pump station, constructing an 8" force main beginning just north of the Seneca Meadows pump station (bypassing this station and its associated force main) and discharging the new 8" force main into the existing 15" gravity sewer located on Balsley Road near the Kingdom Road Pump Station located on Route 5 & 20. Some pump and electrical upgrades will also be made at the Kingdom Road pump station. The Applicant will pay for the cost of all improvements and complete them before the Project becomes operational. Physical disturbance associated with the upgrades is minimal.
  - (12) All wastewater will ultimately be conveyed to the Seneca Falls Waste Water Treatment Plant for treatment. Information provided by the Chief Operator of the plant shows that the

Treatment Plant has available capacity to accept the flows from the project site.

(13) The Town of Seneca Falls has confirmed its ability and willingness to accept and treat sewage flows associated with Project.

2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**L. Part 2, Section 3, Item I – “Other impacts”?**

**II. Impacts on Ground Water (page 3 of Part 2 of EAF): The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.**

**A. Part 2, Section 4, Item a** – “The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.”

1. Relevant Project Information: The Project will be served by public water.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 4, Item b** – “Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer”

1. Relevant Project Information: The Project will be served by public water and the appropriate municipal agencies have indicated that adequate supply is available.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude

- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**C. Part 2, Section 4, Item c** – “The proposed action may allow or result in residential uses in areas without water and sewer services”

- 1. Relevant Project Information: The Project will be served by public water and sewer. The Project does not include residential uses.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**D. Part 2, Section 4, Item d** – “The proposed action may include or require wastewater discharged to groundwater”

- 1. Relevant Project Information: There will be no on-site wastewater treatment. Wastewater will be collected and transported to the existing public sewer system. The appropriate municipal agencies have indicated that adequate treatment capacity is available.
- 2. Item identified as:
  - No impact
  - Potential small impact

Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**E. Part 2, Section 4, Item e** – “The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.”

1. Relevant Project Information: The Project will be served by public water.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**F. Part 2, Section 4, Item f** – “The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.”

1. Relevant Project Information: The Project does not involve the bulk storage of petroleum or chemical compounds.
2. Item identified as:
  - No impact

- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**G. Part 2, Section 4, Item g** – “The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources”

1. Relevant Project Information: It is not likely that pesticides will be applied within 100 feet of potable drinking water.
  - a) The nearest drinking water well is approximately 250 feet to the north.
  - b) Moreover, an Integrated Pest Management (IPM) Plan will be implemented at the Project site, thus reducing the potential effects of pesticide and herbicide applications upon groundwater resources.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**H. Part 2, Section 4, Item h** – “Other impacts”

**III. Impacts on Flooding (page 3 of Part 2 of EAF): The proposed action may result in development on lands subject to flooding.**

**A. Part 2, Section 5, Item a – “The proposed action may result in development in a designated floodway.”**

1. Relevant Project Information: The site is not located in a designated floodway.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 5, Item b – “The proposed action may result in development within a 100 year floodplain”**

1. Relevant Project Information: The site is not located in a 100 year floodplain.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance

- e) Key Question: Is the impact significant and adverse?

**C. Part 2, Section 5, Item c** – “The proposed action may result in development within a 500 year floodplain”

- 1. Relevant Project Information: The site is not located in a 500 year floodplain.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**D. Part 2, Section 5, Item d** – “The proposed action may result in, or require, modification of existing drainage patterns”

- 1. Relevant Project Information: The Project has developed a SWPPP that does not modify existing flow patterns with respect to off-site stormwater that may flow through the site. In accordance with SWPPP onsite drainage patterns may be modified to allow for the collection and management of stormwater; however, the Project does not create any new discharge locations from the Project site. As a result, the drainage pattern of stormwater as it leaves the site will not change.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**E. Part 2, Section 5, Item e** – “The proposed action may change flood water flows that contribute to flooding”

- 1. Relevant Project Information: The Project will not change flood water flows.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**F. Part 2, Section 5, Item f** – “If there is a dam located on the site of the proposed action, is the dam [has failed to meet one or more safety criteria on its most recent inspection] in need of repair or upgrade”

- 1. Relevant Project Information: There is no dam on the Site.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact

3. Part 3 Analysis required? \_\_\_ Yes \_\_\_ No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**G. Part 2, Section 5, Item g – “Other Impacts”**

**IV. Impacts on Agricultural Resources (page 5 of Part 2 of FEAF):  
The proposed action may impact agricultural resources.**

“Agricultural resources” means the land and on-farm buildings, equipment, manure processing and handling facilities, and processing and handling facilities which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

**A. Part 2, Section 8, Item a:** “The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.”

1. This soil classification system denotes the soil productivity level and the ability of a certain soil to support crop production. Soil groups 1-4 are considered the most productive, while soil groups 8-10 are considered less suitable or not suitable for cultivated uses. Some soils within the Project site fall into Soil Group 2.

a) Relevant Project Information

i. Soils on the Site consist of:

- Muck, shallow (Ms – Soil Group 6 or 10)
- Ovid Silt Loam (OvA (Soil Group 5) and OvB (Soil Group 5))
- Ontario Loam (OnB (Soil Group 2), OnC (Soil Group 5), OnC3 (Soil Group 5), and OnD3 (Soil Group 6))

ii. The Ontario Loam soil, classified as OnB, Soil Group 2, exists in the center of the site. The western and eastern portions of the site contain soil groups 5 or above. Approximately 44.7 acres of the 84.95 acre site consist of Soil Group 2.

iii. All clearing work is completed and the majority of mass earth moving is completed at this time.

- iv. Seneca County had approximately 128,000 acres in farms in 2008 (according to the County Agriculture and Farmland Protection Plan). The loss of 45 acres from the County's overall farmland constitutes 0.02% of this total acreage. The Town has approximately 8,270 acres of designated agricultural land, and the loss of 45 acres is 0.5% of that total.

- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 8, Item b:** “The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).”

- 1. Relevant Project Information: No changes in roads, bridges, or traffic configuration that limit or affect current access patterns and paths to agricultural land, or that would prevent travel with large equipment along or to farm fields. Planned widening of the roadway near the site (8 foot shoulders) will further accommodate and improve existing access and travel patterns for farm equipment and horse and buggies which Amish farmers may use to travel. Farmers' access to their agricultural fields will not be affected.
- 2. Item identified as:
  - No impact

- Potential small impact
- Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**C. Part 2, Section 8, Item c:** “The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.”

1. Relevant Project Information:

- a) The site was last actively tilled in the 2014 growing season when it was planted with soybeans. At that time, the site was owned by the Leonards, but Whitetail held a purchase option for the site. Use of the site for farming at that time was limited by the wooded hedgerow, sloped areas, and Federal- and State-regulated wetlands on site. The site was acquired in December 2014, and the site has not been used for agricultural purposes since at least that time, is not currently active agricultural land, and is not planned to be used as agricultural land in the future. Therefore, there is no active agricultural land on site whose soil will be excavated or compacted. There will be no disturbance to or use of any other active agricultural lands off site either.
- b) The site previously contained approximately 45 acres used for agricultural purposes.
- c) The site remains categorized within the Seneca County Agricultural District #6 even though the site is not functioning as agricultural land. In December 2013, Whitetail through Tom Wilmot (then holding an Option to Purchase the Site) applied to Seneca County

Planning Department to remove the Site (tax parcel 12-1-36) from Ag District #6. In March 2014, the then-current owners of the Site, James and Jeanne Leonard, wrote to the Town and Seneca County Planning Board (SCPB) acknowledging the application submitted by Whitetail for zoning changes and site plan approval and indicating their consent to the submission of those applications. The Seneca County Agricultural Enhancement Board (SCAEB) recommended approval of the removal of tax parcel 12-1-36, along with seven other parcels in Tyre and one parcel in the Town of Junius from Ag District #6. In April 2014, the SCPB concurred with the SCAEB and recommended to the Seneca County Board of Supervisors (SCBOS) the recertification of Ag District #6 with the removal of the referenced parcels. In May 2014, SCBOS held a public hearing on the proposed recertification removing those parcels and no comments were received in opposition to the recertification. In July 2014, the SCBOS resolved to request that the NYS Commissioner of Ag and Markets recertify Ag District #6 with the referenced properties removed. The only remaining step in the recertification process is for Seneca County to submit the documentation of these actions to the NYS Commissioner of Agriculture and Markets who must approve the recommended recertification for it to take effect. The Ag District designation for the site does not prohibit the zone change requested by the Applicant.

- d) Project entails the implementation of a plan for agricultural programs and initiatives, including preservation of existing agricultural land within the Town and/or Seneca County (e.g. through which the Town could purchase development rights or take other actions to preserve and promote agricultural land in the Town).
- e) Project features includes “Savor New York” area which promote local and regional goods and products,

including agricultural products like fruits and vegetables.

f) Seneca County had approximately 128,000 acres in farms in 2008 (according to the County Agriculture and Farmland Protection Plan). The loss of 45 acres from the County's overall farmland constitutes 0.02% of this total acreage. The Town has approximately 8,270 acres of designated agricultural land, and the loss of 45 acres is 0.5% of that total. Significant quantities of agricultural land remain available in the Town and the County for farming.

2. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

3. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

c) Likelihood

d) Importance

e) Key Question: Is the impact significant and adverse?

**D. Part 2, Section 8, Item d** - "The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District."

1. Relevant Project Information:

a) The site is not considered agricultural land and is not being used for agricultural purposes and has not been for some time. See Part 2, Section 8, Item c above.

b) The site previously contained approximately 45 acres uses for agricultural purposes.

- c) The site remains categorized within the Seneca County Agricultural District #6 even though the site is not functioning as agricultural land. In December 2013, Whitetail through Tom Wilmot (then holding an Option to Purchase the Site) applied to Seneca County Planning Department to remove the Site (tax parcel 12-1-36) from Ag District #6. In March 2014, the then-current owners of the Site, James and Jeanne Leonard, wrote to the Town and Seneca County Planning Board (SCPB) acknowledging the application submitted by Whitetail for zoning changes and site plan approval and indicating their consent to the submission of those applications. The Seneca County Agricultural Enhancement Board (SCAEB) recommended approval of the removal of tax parcel 12-1-36, along with seven other parcels in Tyre and one parcel in the Town of Junius from Ag District #6. In April 2014, the SCPB concurred with the SCAEB and recommended to the Seneca County Board of Supervisors (SCBOS) the recertification of Ag District #6 with the removal of the referenced parcels. In May 2014, SCBOS held a public hearing on the proposed recertification removing those parcels and no comments were received in opposition to the recertification. In July 2014, the SCBOS resolved to request that the NYS Commissioner of Ag and Markets recertify Ag District #6 with the referenced properties removed. The only remaining step in the recertification process is for Seneca County to submit the documentation of these actions to the NYS Commissioner of Agriculture and Markets who must approve the recommended recertification for it to take effect. The Ag District designation for the site does not prohibit the zone change requested by the Applicant.
- d) Project entails the implementation of a plan for agricultural programs and initiatives, including

preservation of existing agricultural land within the Town and/or Seneca County (e.g. through which the Town could purchase development rights or take other actions to preserve and promote agricultural land in the Town).

- e) Project features includes “Savor New York” area which promote local and regional goods and products, including agricultural products like fruits and vegetables.
- f) Seneca County had approximately 128,000 acres in farms in 2008 (according to the County Agriculture and Farmland Protection Plan). The loss of 45 acres from the County’s overall farmland constitutes 0.02% of this total acreage. The Town has approximately 8,270 acres of designated agricultural land, and the loss of 45 acres is 0.5% of that total.

2. Relevant Public Comments: Several public comments raised concerns about the conversion of agricultural land to non-agricultural purposes and voiced their desire that the predominantly agricultural uses in the Town continue to exist.

3. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

4. Part 3 Analysis required?  Yes  No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

- E. Part 2, Section 8, Item e:** “The proposed action may disrupt or prevent installation of an agricultural land management system.”
1. “Agricultural land management systems” include the placement and use of irrigation lines and equipment, fencing, crop and soil management (fertilizing, plowing, preparing, tending crops, soil erosion control, manure management, etc.), and pesticide control.
  2. Relevant Project Information:
    - a) The site is not currently functioning as agricultural land and none of these agricultural land management systems exist on site.
    - b) Some farms are located in the vicinity of the site, but their land management systems will continue independent from the Project and the features of the Project will not disrupt or prevent them. Construction will not interrupt land management systems and instead aligns with them since the work is similar to the types of land movement activities experienced by farms across the area; moreover, the construction is temporary in nature.
    - c) The Project is an insular development that does not require access to or use of neighboring farms. Visitors to the Project once it begins operations will be temporary, and therefore, unlikely to raise concerns about noise, odor, or farm practices. Permanent population growth from the Project will be minimal.
    - d) Local tourism agencies will work with the Project to promote local wineries, scenic resources, and related opportunities. Other Project features will promote surrounding farm businesses (e.g. “Savor New York” area selling local agricultural products; utilization of a local farm’s existing digester to dispose of food waste and generate electricity from methane to be purchased for the site).
  3. Item identified as:

- No impact
- Potential small impact
- Potential moderate to large impact

4. Part 3 Analysis required?  Yes  No
- a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**F. Part 2, Section 8, Item f** - “The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.”

1. Relevant Project Information:
- a) Growth inducing potential of the Project is small. Casino complexes are self-contained facilities. CGR reported that casinos have low capability for generating spinoff development . CGR reported that casinos have minimal catalytic impact on development, and while the commercial properties south of the site may become more viable, the property values of agricultural properties near the site would not be impacted.
  - b) The Project is located in major travel corridor (site bounded on one side by NYS Route 414 and another by NYS Thruway) near other existing commercial uses (Petro, local restaurant, gas station, scrap metal yard) as well as existing agricultural uses.
  - c) The Project entails the implementation of a plan for agricultural programs and initiatives including preservation of existing agricultural land within the Town and/or Seneca County (e.g. through which the Town could purchase development rights or take

other actions to preserve and promote agricultural land in the Town).

- d) Project features includes “Savor New York” area which promote local and regional goods and products, including agricultural products like fruits and vegetables.
- e) Project will send food waste to nearby farm with existing digester which will generate energy from methane for use at the site.
- f) Tax Base Enhancement: The Project is expected to generate \$3.8 million in annual gaming revenue taxes each to the Town and County. Payment-in-lieu of taxes, sales taxes, room taxes and gaming revenue taxes are anticipated to result in over \$202 million dollars in benefits to the Town and County accrued over the years 2015 to 2038.
  - o Tyre Comprehensive Plan emphasizes the importance of agricultural use in the Town, but also recognizes the Town’s need to build a tax base to facilitate continued community services. The Plan seeks to encourage “appropriate development of business along the major transportation corridors of the town” (Tyre Comp. Plan at p.25). Regional comprehensive planning has identified the Routes 318 and 414 corridors as the area most likely to experience development (Tyre Comp. Plan at p.26). “The Town of Tyre has a significant opportunity to expand its tax base because it contains New York State Thruway Exit 41. Development opportunities would be enhanced if adequate water and sewer were available to the properties surrounding Exit 41. However, . . . this area must be developed carefully and with the intent to minimize its impact on the rural nature of the town” (Tyre Comp. Plan at p.27). Development pressure is a concern to the planning process. One of the recommended actions of the Plan is

to secure sufficient water and sewer capacity to support concentrated development in the area of Thruway Exit 41 and the Route 414 and 318 intersection.

- g) Water Demand: Project will utilize the existing public water system provided by the Village of Waterloo, which has sufficient capacity to serve the Project. Total anticipated water usage per day is 145,000 gallons. The Project will necessitate an extension of the existing 12" watermain from the Town of Tyre Water District #1 to the site.
- h) Sewer Demand: Project will utilize the existing public sanitary sewer system, that is, the Seneca Falls Wastewater Treatment Facility, which has capacity to serve the Project. The Project will generate approximately 145,000 gallons per day of sanitary wastewater. The Project will be internally served by a private 8" gravity sanitary sewer which will direct the waste to a private pump station to the lower north side of the Site. A private 6" force main sanitary sewer will be installed on site, connecting this pump station and extending off site to the existing manhole on the south side of the NYS Thruway (adjacent to Petro) to connect with the existing 12" gravity sewer, which line has sufficient capacity to accept flows from the Project without utilizing all of the capacity of the Facility. The 6" force main will be considered and treated as a private lateral until it connects to the public sanitary sewer at this 12" line.

Utility permit plans were prepared and provided to the NYS Thruway and NYS DOT for review within their respective right-of-ways, and the plans were approved by both agencies. The NYS Thruway Authority has already issued an Occupancy Permit for the sanitary sewer. The Applicant will seek a Use and Occupancy Permit from NYSDOT as well.

The Project will also make off-site improvements to the sewer system, specifically, upgrading the existing Route 414 pump station, constructing an 8" force main beginning just north of the Seneca Meadows pump station (bypassing this station and its associated force main) and discharging the new 8" force main into the existing 15" gravity sewer located on Balsley Road near the Kingdom Road Pump Station located on Route 5 & 20. Some pump and electrical upgrades will also be made at the Kingdom Road pump station. The Applicant will pay for the cost of all improvements and complete them before the Project becomes operational.

- i) **Improved Roads:** The Project is expected to increase traffic above its present levels so the Project incorporates off-site improvements to existing roadways, including widening Route 414 (to four lanes) from the NYS Thruway interchanges to the Project entrance; adding turning lanes to the Project entrance, the Route 414/Thruway intersection, and the Route 318/414 intersection; installing new and improving traffic signals at these intersections; expanding the Thruway bridge overpass; and creating enlarged shoulders on both sides of Route 414 (measuring 8 feet) to accommodate slow-moving vehicles or equipment like buggies, cyclists, and farm equipment.

2. Public Comments: Akin Gump commented that a mixed use 3S Gateway project, a concrete plant at the Riccelli Enterprises Junius, NY facility, and an affordable housing project by Better Housing for Tompkins County of Ithaca, are projects proposed as a result of or dependent on the Project.

a) Relevant Information:

- 3S Gateway project – first proposed long ago independent from the Project and was discussed again after this Project was initiated. Application has been suspended indefinitely with no

indication of if or when it would move forward. Review of this proposed property indicates that federal wetlands bisect the site and making development problematic.

- Riccelli cement plant – location in Junius, NY. Providing access to the Project site was just one factor in the County planning board’s review of this project, as the minutes of the meeting when the project was considered also stated that the location will position Riccelli in a competitive location to continue to serve other redevelopment. The plant was awarded a contract for resurfacing the NYS Thruway in the area of Exit 41; construction vehicles hauling asphalt products were seen entering and exiting the Thruway directly from the plant. A discussion was specifically had about the viability of the plant apart from the Project construction. The area of the cement plant is not farmland.
- Pineview housing project – applicant has made statements in its application review process before local boards that its development is unrelated to the Project and will proceed regardless of whether the Project moves forward or not. A market study provided on August 1, 2015 demonstrated that the existing market does have a need for this type of housing in the area.

3. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

4. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

c) Likelihood

d) Importance

- e) Key Question: Is the impact significant and adverse?

**G. Part 2, Section 8, Item g:** “The proposed project is not consistent with the adopted municipal Farmland Protection Plan.”

1. Relevant Plans:

- a) The Agriculture and Farmland section of the Tyre Comprehensive Plan recognizes that agriculture is “very important to the economy and quality of life of the Town of Tyre” and residents “prefer that the town remain rural and consider agriculture very important” (Tyre Comp. Plan at p.19). The goals of this section include enhancing the economic climate for agriculture in Tyre, discouraging uses that unduly negatively impact farming operations, conserving productive agricultural land, and ensuring commercial development in the Town is consistent with those objectives (Tyre Comp. Plan at p.17). The Plan notes that development of farmland could create potentially higher property taxes due to increased demand for municipal services or allow for nuisance complaints by new neighbors. Other sections of the Plan balance this desire to preserve agricultural uses in the Town with the need for economic advancement, particularly in the vicinity of the major travel corridors (NYS Thruway and Routes 414 and 318).
- b) The stated purpose of the Seneca County Agriculture and Farmland Protection Plan (County FPP) is to support the continued economic prosperity of agriculture in the County, one of its largest economic sectors, by recognizing its diversity, supporting preservation, promoting awareness, and supporting local production, processing and marketing of agricultural products (County FPP at p.1, 21-26). The County FPP specifically notes that increased tourism business benefits agricultural sectors in tree fruit and small

fruit growing (e.g. wineries and vineyards, local “U-pick” strawberry fields) (County FPP at p. 10). One of the areas of concern for this sector though is a lack of markets since the producers in Seneca County compete with producers from other New York counties, other states, and foreign countries (County FPP at p.11). The goals for enhancing the economic climate for agriculture in the County include implementation of the “Buy Local” campaign, development of printed promotion materials about agricultural products and services in the area, and encouraging agrotourism (County FPP at p.21-26). Another goal of the County FPP is to enhance environmental stewardship of agricultural businesses (County FPP at p.31). “One the most effective programs for environmental stewardship is the Integrated Pest Management Program (IPM)” (County FPP at p.6). Another goal is to preserve prime agricultural land (County FPP p. 33).

2. Relevant Project Information:

- a) The Project is bounded on two sides by major travel routes and adjacent to the Town’s largest commercial development (Petro) as well as nearby other commercial uses.
- b) Project features are specifically intended to promote awareness of surrounding natural resources and promote surrounding agricultural uses and industries, sell and market local agricultural products and sectors, advance environmental stewardship:
  - Project entails the implementation of a plan for agricultural programs and initiatives including preservation of existing agricultural land within the Town and/or Seneca County (e.g. through which the Town could purchase development rights or take other actions to preserve and promote agricultural land in the Town).

- Project features includes “Savor New York” area which promote local and regional goods and products, including agricultural products like fruits and vegetables.
  - Project will send food waste to local farm with existing digester which will generate energy from methane for use at the site.
  - Project will include a kiosk display explaining the preservation of the eastern 10 acres of the Site (containing woods and wetlands, to be designated as forever wild) and its role within the overall ecosystem of the region. The applicant will also make available to visitors materials on the Erie Canal Corridor and local nature parks, including the Seneca Meadows Wetlands Preserve and the Montezuma National Wildlife Refuge.
- c) The site contains approximately 44.7 acres of soil classified as Soil Group 2, but the site does not consist of critical agricultural land. The site is still within Seneca Count Ag. District #6, but is in the process of being removed from it.
- d) The Project formerly contained 45 actively farmed acres, though none of the site currently functions as agricultural land. Seneca County had approximately 128,000 acres in farms in 2008 (according to County FPP). The Town has approximately 8,270 acres of designated agricultural land. Less than 0.02% of the County’s total farmland will be lost and less than 0.5% of the Town’s farmland will be lost as a result of the Project. Significant quantities of agricultural land will remain available in the Town and County for farming.
- e) Casino complexes are self-contained facilities. CGR reported that casinos have low capability for generating spinoff development . CGR reported that casinos have minimal catalytic impact on

development, and while the commercial properties south of the site may become more viable, the property values of agricultural properties near the site would not be impacted.

- f) Local tourism agencies will work with the Project to promote local wineries, scenic resources, and related opportunities.
- g) The Project will implement an Integrated Pest Management (IPM) Plan, decreasing the potential for pesticide runoff from levels previously associated with agricultural activities at the site. The IPM Plan will be used maintain the lawn and landscaped areas and it minimizes the uses of pesticides and encourages natural pest control mechanisms.
- h) The Project will feature other green energy components and practices (e.g. solar panels for generation and use of solar energy, high efficiency HVAC, Construction Waste Management Plan, use of diverted storm water for irrigation of landscaping, etc.).

3. Item identified as:

No impact

Potential small impact

Potential moderate to large impact

4. Part 3 Analysis required?  Yes  No

a) Magnitude

b) Duration

c) Likelihood

d) Importance

e) Key Question: Is the impact significant and adverse?

**H. Part 2, Section 8, Item h: "Other impacts"**

**V. Impacts on Critical Environmental Areas (page 7 of Part 2 of EAF): The proposed action may be located within or adjacent to a critical environmental area (CEA).**

**A. Part 2, Section 12, Item a:** “The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.”

1. CEAs areas designated by State agencies and municipalities that have an exceptional or unique character meeting at least one of four factors. The site does not contain any CEAs and there are no listed CEAs in Seneca County.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 12, Item b:** “The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.”

1. The site does not contain any CEAs and there are no listed CEAs in Seneca County.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No

- a) Magnitude
- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**VI. Impact on Human Health (page 9 of Part 2 of EAF): The proposed action may have an impact on human health from exposure to new or existing sources of contamination.**

**A. Part 2, Section 16, Item a:** “The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.”

- 1. The site is not located within 1500 feet of one of these types of uses.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**B. Part 2, Section 16, Item b:** “The site of the proposed action is currently undergoing remediation.”

- 1. The site is not currently undergoing remediation. There is no history of reported spills or remedial actions at the site. The site is not within 2000 feet of any site in NYSDEC Environmental Site Remediation database. Furthermore, the Phase I Environmental Site Assessment (ESA)

concluded there were no on-site, off-site, or historical recognized environmental conditions, meaning no presence or likely presence of any hazardous substances or petroleum products. The Phase I ESA concluded that additional investigation was not recommended.

2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**C. Part 2, Section 16, Item c:** “There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.”

1. There is no history of reported spills or remedial actions at the site and the Phase I Environmental Site Assessment concluded there were no on-site, off-site, or historical recognized environmental conditions, so this item is not applicable. See Part 2, Section 16, Item b above.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood

- d) Importance
- e) Key Question: Is the impact significant and adverse?

**D. Part 2, Section 16, Item d:** “The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).”

1. The site is not subject to any institutional controls.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**E. Part 2, Section 16, Item e:** “The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.”

1. The site is not subject to any institutional controls, so this item is not applicable.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration

- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**F. Part 2, Section 16, Item f:** “The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.”

- 1. The Project will not generate hazardous waste or emissions, nor will the Project involved the transportation, treatment or disposal of hazardous waste. The site was previously used for agricultural purposes which may have entailed the use of pesticides, but nothing indicates they were used in amounts different from typical agricultural uses. There is no history or indication of contaminants at the site. The Phase I ESA concluded there were no on-site, off-site, or historical recognized environmental conditions, and it recommended no further investigation. See Part 2, Section 16, Item b above. Furthermore, the Applicant has committed to using an Integrated Pest Management Plan to maintain the lawn and landscaped areas, which minimizes the uses of pesticides and encourages natural pest control mechanisms.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

- G. Part 2, Section 16, Item g:** “The proposed action involves construction or modification of a solid waste management facility.”
1. The Project does not involve construction or modification of a solid waste management facility.
  2. Item identified as:
    - No impact
    - Potential small impact
    - Potential moderate to large impact
  3. Part 3 Analysis required?  Yes  No
    - a) Magnitude
    - b) Duration
    - c) Likelihood
    - d) Importance
    - e) Key Question: Is the impact significant and adverse?
- H. Part 2, Section 16, Item h:** “The proposed action may result in the unearthing of solid or hazardous waste.”
1. The site was previously used for agricultural purposes which may have entailed the use of pesticides, but nothing confirms they were used in amounts different from typical agricultural uses. In any case, there is no history or indication of contaminants at the site. The Phase I ESA concluded there were no on-site, off-site, or historical recognized environmental conditions, and it recommended no further investigation. See Part 2, Section 16, Item b above.
  2. Item identified as:
    - No impact
    - Potential small impact
    - Potential moderate to large impact
  3. Part 3 Analysis required?  Yes  No
    - a) Magnitude

- b) Duration
- c) Likelihood
- d) Importance
- e) Key Question: Is the impact significant and adverse?

**I. Part 2, Section 16, Item i:** “The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.”

- 1. The Project will not result in an increase to the permitted rate of disposal or processing of solid waste at any authorized solid waste management facility.
- 2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
- 3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**J. Part 2, Section 16, Item j:** “The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.”

- 1. There is no history of reported spills or remedial actions at the site. The site is not within 2000 feet of any site in NYSDEC Environmental Site Remediation database. The Phase I ESA concluded there were no on-site, off-site, or historical recognized environmental conditions, and it recommended no further investigation. See Part 2, Section 16, Item b above. Thus, there is no potential for

excavation or other disturbance of a site used for the disposal of solid or hazardous waste.

2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**K. Part 2, Section 16, Item k:** “The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.”

1. The Project will not affect any landfill gases.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**L. Part 2, Section 16, Item l:** “The proposed action may result in the release of contaminated leachate from the project site.”

1. There is no history of reported spills or remedial actions at the Site. The Site is not within 2000 feet of any site in NYSDEC Environmental Site Remediation database. The Phase I ESA concluded there were no on-site, off-site, or historical recognized environmental conditions, and it recommended no further investigation. See Part 2, Section 16, Item b above. Thus there is not contaminated leachate at the Site to be released.
2. Item identified as:
  - No impact
  - Potential small impact
  - Potential moderate to large impact
3. Part 3 Analysis required?  Yes  No
  - a) Magnitude
  - b) Duration
  - c) Likelihood
  - d) Importance
  - e) Key Question: Is the impact significant and adverse?

**M. Part 2, Section 16, Item m: "Other impacts"**