

APPENDIX C

Appendix C: Correspondence

1. Letter from New York State Department of Environmental Conservation, dated July 2, 2007.
2. Letter from Erie County Department of Environment and Planning, dated February 29, 2008.
3. Letter from New York State Department of Environmental Conservation, dated April 23, 2008.
4. Letter from New York State Thruway Authority, dated May 13, 2008.
5. Letter from New York State Department of Transportation, dated February 18, 2009.
6. Letter from New York State Thruway Authority, dated February 23, 2009.

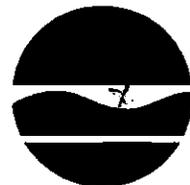
New York State Department of Environmental Conservation

Division of Environmental Permits, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2999

Phone: (716) 851-7165 • FAX: (716) 851-7168

Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

July 2, 2007

Mr. Andrew Reilly
Hamburg Town Planning Consultant
S6100 South Park Avenue
Hamburg, New York 14075

Dear Mr. Reilly:

**SEQR LEAD AGENCY DESIGNATION
HAMBURG CROSSINGS
5220 CAMP ROAD
TOWN OF HAMBURG - ERIE COUNTY**

This is in response to your notice dated June 8, 2007 requesting SEQR Lead Agency Status for the above-noted project. From the information provided, it is apparent that the project is a Type 1 action in accordance with 6 NYCRR Part 617, the State Environmental Quality Review Regulation (SEQR), since it involves over 10 acres of land disturbance. Please be advised of the following environmental concerns in connection with this project:

1. If this project requires Sewer Extension Approval, the Erie County Health Department, 95 Franklin Street, Buffalo, New York 14202, which acts as our agent, will be the approving agency. Information concerning Sewer Extension Approval can be obtained by contacting the Erie County Health Department at 716/858-7762.
2. Approximately 90 percent of the site (approximately 72 acres) is located on hydric soils. The project sponsor should contact the United States Department of the Army, Corps of Engineers' (COE) Buffalo District Office, telephone: 716/879-4330, concerning COE regulatory jurisdiction to ensure that the project will not involve federally regulated wetlands or any other approval from that agency. If Federal Wetlands are involved, the COE may require Water Quality Certification from DEC.
3. Since project activities will involve land disturbance of over 1 acre, the project sponsor is required to obtain a State Pollutant Discharge Elimination System General Permit (GP-02-01) for Stormwater Discharge from Construction Activities. A Notice of Intent (NOI) is required to be sent to NYSDEC, Bureau of Water Permits, 625 Broadway, Albany, New York 12233-3505, telephone: 518/402-8111 and approved before construction commences. The General Permit GP-02-01 and NOI form are available on the Department's website at

Mr. Andrew Reilly
July 2, 2007
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www.dec.state.ny.us. We have included the NOI form with a copy of this letter to the project sponsor.

This General Permit requires the project sponsor (operator) and all contractors and subcontractors to control stormwater runoff according to the Stormwater Pollution Prevention Plan, which is to be developed prior to filing NOI and prior to commencement of the project.

4. There is a gas well located within the proposed project site (see attached map). It will be necessary to determine whether the well is functional or has been appropriately plugged for public safety purposes. Please contact our Regional Mineral Resources Unit (Allegany Sub-office, telephone: 716/372-5636) in order to obtain appropriate information and/or schedule a site inspection by Department staff to determine whether there may be any problems related to the well.
5. According to the Federal Emergency Management Agency's FIRM Map No. 3602440012D, the southwestern portion of the site borders the 100-year-floodplain.

We concur that the Town of Hamburg Town Board should act as SEQR Lead Agency, as the environmental impacts of the proposal are primarily of local significance.

Thank you for providing this office the opportunity to review the proposed project. If you have any questions, please feel free to contact Ms. Denise Matthews or me at 716/851-7165.

Respectfully,



Steven J. Doleski
Regional Permit Administrator

DCM:jaf

cc: U.S. Department of the Army, Corps of Engineers, Buffalo District Office
Mr. John Finster, Erie County Health Department
Hon. Steven Walters, Town of Hamburg Supervisor
Town of Hamburg Clerk
Benderson Development Co., LLC



COUNTY OF ERIE

CHRIS COLLINS

COUNTY EXECUTIVE

February 29, 2008

Mr. Christopher Wood, P.E.
Carmina & Wood, P.C.
487 Main Street
Buffalo, New York 14203

Re: Erie County Sewer District No. 3
Hamburg Crossings – 5220 Camp Road @ I-90
(Peak Flow - 0.316 mgd)

Dear Mr. Wood:

As requested in your February 28, 2008 letter regarding adequate sanitary sewer capacity to accept a peak flow of 0.316 mgd from the Hamburg Crossings project, the following is our response:

Based on present conditions, capacity in the Erie County Sewer District No. 3 trunks and pumping stations is available to serve the above noted project. Capacity allocations however, are only made upon State approval of plans in the case of subdivisions and extensions of the sanitary sewer system, or issuance of a sewer connection permit in the case of a building sewer tap. No representation is made as to future conditions.

To better manage peak wet weather flows through the existing sanitary sewer system, this proposed project may be required to perform I/I removal in a 4:1 ratio prior to approval.

The above does not constitute the Division of Water Quality Management's approval or disapproval of the project. Should you have any questions, please call me at 858-8663.

Sincerely,

Peter J. Ruffino
Assistant Sanitary Engineer

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BY

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CARMINA • WOOD • MORRIS P.C.
CIVIL GROUP

pjr
cc: M. Salah/3.2.5.Other

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, New York, 14203-2915
Phone: (716) 851-7165 • FAX: (716) 851-7188
Website: www.dec.ny.gov



April 23, 2008

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APR 25 2008

**TOWN OF HAMBURG
PLANNING DEPT.**

Mr. Andrew Reilly
Hamburg Town Planning Consultant
56100 South Park Avenue
Hamburg, New York 14075

Dear Mr. Reilly:

**HAMBURG CROSSINGS - 5220 CAMP ROAD
BENDERSON DEVELOPMENT COMPANY, LLC
TOWN OF HAMBURG - ERIE COUNTY**

This letter is written in response to the Draft Environmental Impact Statement (DEIS) copies that were recently received at this office for our review and comment. This correspondence will also be a follow up to our July 2, 2007 letter to you, when we identified certain environmental and natural resource concerns and possible regulatory requirements. The following is relevant:

1. Our Division of Water staff have indicated that Sewer Extension Approval, after proper hydraulic capacity review, should be a routine approval by this Department and the Erie County Health Department. No significant sewer line deficiencies have been identified by this office.
2. The U.S. Department of the Army, Corps of Engineers, Buffalo District Office (COE) has determined there is very limited federally regulated wetlands on site, via a review of the project consultant's wetland report and actual property inspection. It is unclear whether any of the minimal wetland determined to be federally jurisdictional will be eliminated by the project and other small wetland areas were determined to be isolated and, therefore, not regulated by the COE. This Department has decided that there are presently no identified and/or unmapped state jurisdictional wetlands on and/or adjacent to the site that would be regulated under the New York State Freshwater Wetlands Law (Article 24 of the Environmental Conservation Law). Accordingly, the project sponsor should consult with COE staff in order to determine whether Water Quality Certification will be necessary for the project and then notify this office of that requirement.
3. Obviously, the project will require a Department approval for appropriate control of the quantity and quality of stormwater that will be generated by the on-site development. The DEIS correctly identifies the need to obtain this General Permit (Section 4, page 1) but it should be pointed out that the permit and standards regarding stormwater have been changed (for instance, the 5 acre threshold has been changed to 1 acre) and the project's design must ensure that the new standards are met. For more information on this matter, William Smythe, P.E., Environmental Engineer 2 of our Division of Water, can be contacted at (716) 851-7070.

Mr. Andrew Reilly
April 23, 2008
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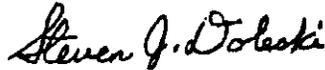
4. The DEIS documents the fact that there is an existing gas well on site (Appendix 4, letter by Albert G. Lyons, Jr., P.E., Vice President, Great Lakes Environmental & Safety Consultants, Inc.), which has not been used for over 7 years. Mr. Lyons' letter said that "a visual inspection of the site does not reveal the presence of a well, thereby assuming the well has been plugged and abandoned." While the project sponsor's consultant reviewed the location of the well and it was not located, our direction in my July 2, 2007 letter to you and to Benderson Development Company, LLC made it rather clear that the Division of Mineral Resources should be contacted to ensure that the well has been appropriately plugged for public safety purposes. **After the required contact to Department staff occurs, a site inspection will be scheduled (if necessary) to ensure that there will not be any public safety problems related to the well. Please make sure that this occurs rather than relying on an inspection that did not find the well but also certainly did not verify that it had been correctly plugged.**
5. It is noted that an archaeological investigation was conducted on site and the New York State Office of Parks, Recreation and Historic Preservation has concurred with the archaeological consultant's report and stated that the project should not have any significant impact on cultural resources.
6. In our previous letter, we identified that the site does contain a limited amount of 100-year floodplain as presently mapped by the Federal Emergency Management Agency. From our cursory review, it does not appear that development is proposed in that floodplain and we believe that such avoidance is a wise design feature.
7. Appendix 4 apparently is supposed to contain all relevant agency correspondence submitted in respect to scoping and early review of the DEIS. We note that our July 2, 2007 letter to you was not included in Appendix 4, even though Benderson Development Company, LLC was also provided with a copy of that letter. **A copy of that letter and this letter should be provided in any Supplemental DEIS that may be prepared or the Final EIS. Obviously, without being able to review page 17, we cannot conclude that what was written there regarding this Department was factual or accurate. We have enclosed a copy of the July 2, 2007, letter for your convenience.**
8. Appendix 9 contains the Earth Dimensions, Inc. Wetland Delineation Report dated November 15, 2006. We note that page 17 (in both volumes of the DEIS we received) is missing. Page 18 mentions the "New York State Department of Environmental Conservation for their jurisdictional determination and/or required permits"; however, the preceding page, which apparently was saying something related to our permitting authority, is not included in the DEIS. Please send me those pages as soon as possible and be sure to include them with this letter in any Supplemental DEIS that may be prepared or the Final EIS.
9. Lastly, effective February 26, 2006, Chapter 641 of the NYS Laws of 2005 mandated the posting of Draft Environmental Impact Statements (DEIS) on a publicly accessible Internet website (www.dec.state.ny.us/website/dcs/seqr/) then go to NEW EISs on the Web, then go to FAQ's). Under this statute, if it is decided that a DEIS is necessary, it must be posted as soon as it is accepted for official public/agency distribution and comment and should remain posted until the Full Environmental Impact Statement

Mr. Andrew Reilly
April 23, 2008
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(FEIS) is similarly accepted and distributed. The FEIS must remain posted on the website until one year after all final approvals have been evaluated and then issued for the project. For actions where a Generic Environmental Impact Statement (GEIS) has been prepared, the Final GEIS should remain posted on the website for at least one year and longer if reviews of the matter are still pending. This requirement is in addition to the distribution requirement described in 6NYCRR Part 617.12 of the SEQR regulation. It appears that the project's DEIS/FEIS is subject to this new requirement. Accordingly, please provide Department staff with the publicly accessible Internet website which will be stated in all notices for the application.

As usual, Mr. Reilly, thank you for your continued contact with this office and your excellent cooperation.

Respectfully,



Steven J. Doleski
Regional Permit Administrator

SJD:vm
Enclosure

cc: Mr. Christopher Miller, NYSDEC, Division of Mineral Resources, Allegany
Ms. Anne Oyer, NYSDEC, Division of Fish, Wildlife and Marine Resources
Mr. Daniel Judd, NYSDEC, Division of Water
Mr. William Smythe, NYSDEC, Division of Water
Mr. Martin Crosson, U.S. Department of the Army, Corps of Engineers, Buffalo District Office
Mr. John Finster, Erie County Health Department
Hon. Steven Walters, Town of Hamburg Supervisor
Ms. Catherine A. Rybczynski, Town of Hamburg Clerk
Mr. William Rae, Benderson Development Company, LLC

Drew



John L. Buono
Chairman

**New York State Thruway Authority
New York State Canal Corporation**

455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-1901

www.nysthruway.gov



Michael R. Fleischer
Executive Director
TDD/TTY 1-800-253-8244

May 13, 2008

Mr. Andrew C. Reilly, P.E., AICP
Town of Hamburg Planning Consultant
56100 South Park Avenue
Hamburg, New York 14075

RE: Hamburg Crossings
DEIS Comments
Town of Hamburg, Erie County

Dear Mr. Reilly,

We have reviewed the Draft Environmental Impact Statement for the Hamburg Crossings Retail/Commercial Center Development Project. We offer the following comments:

The DEIS needs to mention that there are general guidelines to be followed when constructing advertising devices in the vicinity of the Thruway Right-Of-Way. There are certain circumstances where placement of an advertising device will require the need for a permit. The decision for granting these permits is subject to Authority review and approval. For your use and reference, attached is Thruway Authority "General Guidelines pertaining to Advertising Devices".

The Traffic Impact Study Section of the DEIS references the use of the New York State Department of Transportation (NYSDOT) Traffic Volume Report 2004 in order to obtain Existing Average Daily Traffic information for the project. More recent traffic data should be available for the project area roadways from the NYSDOT Region 5 offices in Buffalo.

We would like to be updated on the status of the project and be advised of the Town of Hamburg and NYSDOT's comments on the study's recommendations. We also request review of the project plans when they become available for review.

If you have any questions, please feel free to contact us at (716) 635-6218.

Very truly yours,

Paul Zakrzewski
Paul Zakrzewski,
Capital Program Manager

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MAY 15 2008

TOWN OF HAMBURG
PLANNING DEPT.



**STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
REGION FIVE
100 SENECA STREET
BUFFALO, NY 14203
www.nysdot.gov**

**ALAN E. TAYLOR, P.E.
REGIONAL DIRECTOR**

**ASTRID C. GLYNN
COMMISSIONER**

February 18, 2009

Andrew Reilly
Town of Hamburg Planning Department
S-6100 South Park Avenue
Hamburg, New York 14075

**RE: SEOR/SITE PLAN REVIEW
Hamburg Crossings
Camp Road
Town of Hamburg**

Dear Mr. Reilly:

We have reviewed the Traffic Impact Study (Revision January 2009) that we received on January 16, 2009 for the subject development and have the following comments:

- Based on the significant number of vehicles projected to use the proposed site driveway on NY Route 75, a signal would be approved for Phase I development.
- A traffic signal will not be approved at Commerce Place until actual traffic conditions meet the signal warrants. However, we concur with constructing the additional approach lane on Commerce Place at its intersection with NY Route 75 as recommended in the TIS as mitigation for Phase I.
- The TIS proposes that right turns from southbound NY Route 75 to the proposed site driveway should be channelized via a raised island and to construct a right turn pocket to the greatest length possible. This alternative, also identified in the study as Alternative 1D, appears to be the most desirable of the options considered in the TIS for this intersection. However, the Department has concerns with the excessive queue lengths on southbound NY Route 75. The average queue length would extend back to Dartmouth Street and maximum length would extend to Columbia Street.

Constructing two additional southbound lanes on NY Route 75 at the proposed site driveway was briefly discussed in the TIS for Phase 2 mitigation. The study concluded that there isn't sufficient right-of-way available to construct these improvements. This mitigation would be desirable for traffic generated under Phase 1. However, at the meeting on November 21, 2009, the Department acknowledged that right-of-way constraints may make it difficult to construct. At that meeting with representatives present from the Town, the Developer, NY State Thruway and the DOT, we suggested investigating some other alternatives at this intersection in effort to improve the excessive queue lengths and operational problems that are anticipated with the additional traffic.

February 18, 2009

One suggestion presented was to explore the use of a shared driveway on NY Route 75 that would service the subject parcel along with the adjacent parcel to the north. Under this option, additional lanes can be constructed on NY Route 75 with the cooperation of the two adjacent property owners and the transfer of property frontage into highway right-of-way. The shared driveway alternative would provide many benefits to the two property owners as well as the traveling public on NY Route 75. This option was not considered in the revised TIS and we would like to see this option pursued.

Another alternative we suggested was to explore modifications to the Thruway on ramp from southbound NY Route 75 that would move it further south. If feasible, the distance between the ramp and the proposed site drive could be increased. This would improve the operational problems associated with the close proximity of the proposed site driveway to the Thruway on ramp. Depending upon the outcome of the shared driveway option and its location, relocating the ramps may not be necessary. This ramp alternative was also not considered in the TIS and should be further evaluated.

- We are concerned with the weaving movement for motorists traveling from the Thruway off ramp to northbound NY Route 75 that are destined for the Hamburg Crossing development. The TIS states that the weaving maneuver is not a significant safety concern. However, the intersection was not modeled correctly in the TIS resulting in the projected traffic conditions not being accurately depicted. It has been our experience in similar situations that this weaving maneuver to the left turn lane will be difficult. We expressed our concerns at the November meeting and suggested investigating an option to modify the Thruway off ramp so that it intersects NY Route 75 closer to or at a 90 degree angle. This would provide more distance from the end of the ramp to the proposed left turn lane for Hamburg Crossing. Based on our experience along with the modeling error, we can not concur with the statements in the TIS that the weaving is not a concern.
- The TIS recommends signal timings adjustments at ^{NY Route 75} ~~US Route 20~~/Legion Drive and US Route 20/NY Route 75 intersections. The Department will monitor these signals and make timing adjustments if and when they are needed based on actual traffic conditions.
- As this project progresses we will also need to review detailed site plans, a drainage plan and storm water management calculations.

February 18, 2009

- Relative to the Transportation section of the Draft Findings that you forwarded, the Department concurs with your conditions set forth that need to be satisfied before Phase 2 development proceeds.

The Department recognizes the economic benefits that this project will provide to the Town and the community. We also realize the importance that the proposed project is progressed along in a timely manner. However, the proposed project will generate a significant increase in traffic, even under Phase 1 and we are very concerned about the safety and needs of the traveling public. We made recommendations at the November meeting to explore alternatives, which were not presented in the revised TIS. We feel every effort should be made to provide adequate highway mitigation given existing constraints.

The Department is willing to participate in a meeting with representatives from the two properties and the Town to present the benefits of access management and the shared driveway. We are also willing to meet with the Town, the Developer and the Thruway Authority to discuss our suggestions that impact the I-90 ramps. Additionally, we would like to work with the Town on a way to allow the developer to progress this project forward while additional traffic improvements are assessed.

If you have any questions or comments, please contact me at 847-3575.

Sincerely,

EDWARD S. RUTKOWSKI, P.E.
SEOR/Site Plan Review Coordinator

ESR/lk

cc: NYSTA
Jeff Palumbo, Esq.
Benderson Development Co.
SRF Associates



John L. Buono
Chairman

New York State Thruway Authority
New York State Canal Corporation

455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-1901

www.nysthruway.gov



Michael R. Fleischer
Executive Director
TDD/TTY 1-800-253-6244

February 23, 2009

Ms. Amy Dake, P.E.
Senior Traffic Engineer
SRF Associates
3495 Winton Place
Building E, Suite 110
Rochester, New York 14623

RE: Hamburg Crossings
Updated Traffic Impact Study
Town of Hamburg, Erie County

Dear Ms. Dake:

We have reviewed the updated traffic impact study for the above referenced development as forwarded to our office from SRF Associates under a 01/13/09 cover letter. Based on our review of this study, we offer the following comments:

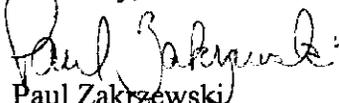
- The study uses outdated 2004 NYSDOT traffic counts which need to be updated to include the latest traffic count information.
- For the first phase of construction, it appears that either Alternative 1C or 1D would be the most acceptable; with 1D being more desirable, as it would create less downstream turbulence for Thruway bound traffic exiting southbound Route 75. We are still concerned about the location of the site drive on Route 75 and its proximity to the Thruway ramps. Of particular concern is the weaving maneuver that would be created for traffic exiting the Thruway ramp to proceed northbound on Route 75 into the proposed site driveway. We believe this will create safety and operational concerns for drivers exiting the Thruway. The report indicates signage on NYS Thruway right-of-way which will be used to prevent this movement, but signage directing patrons to a business is not permitted. This issue has not been adequately addressed within the report.

- The proximity of the proposed site driveway to the I-90 on-ramp from Route 75 southbound will cause possible conflicts with vehicles merging onto the ramp and vehicles making right turns out of the development and proceeding southbound on Route 75. Although Route 75 is not under the jurisdiction of the Thruway Authority, we would support the relocation of the proposed site driveway to a location further north, away from the Thruway ramps to minimize the overall impact.
- Section 8, Number 10, states that a post-development traffic study should be done after phase 1 is complete to evaluate traffic operations at the Thruway ramp intersections. We agree, but how will this be accomplished? And if such an analysis shows that alterations are necessary, who will design and complete them? Please advise.
- The study describes the removal of the existing Camp Road Bridge and the Thruway ramps under a future Alternative 2A, but does not show a proposed design or potential mitigation as part of this alternative. We cannot comment further on this Alternative until more detail is provided.
- The study mentions that alternatives involving the use of roundabouts were dismissed due to opposition from the Hamburg Town Supervisor's office. We believe the roundabout option should be re-considered and analyzed as part of the future Phase 2 alternatives. Please keep this office updated as the Phase 2 alternatives are further developed.

We would like to be updated on the status of the project. We also request review of the project plans when they become available for review. Please be advised the New York State Thruway Authority has no present or future intention of constructing a noise barrier in the vicinity of the proposed project. To review our Traffic Noise Policy and our Thruway Noise Barrier Prioritization Study, we encourage you to visit our web site at www.nysthruway.gov.

If you have any questions, please feel free to contact me at (716) 635-6218.

Sincerely,


Paul Zakrzewski
Capital Program Manager

PZ:cs

cc Mr. Ed Rutkowski, NYSDOT, Planning and Program Management
Mr. Andrew Reilly, Town of Hamburg Planning Consultant ✓
Mr. William Rae, Benderson Development Co.
Mr. Jeff Palumbo, Damon & Morey