

At a regular meeting of the Town Board of the Town of West Seneca, in the County of Erie, New York, held at Town Hall, 1250 Union Road, West Seneca New York 14224 on March 14, 2016

PRESENT: Sheila M. Meegan, Supervisor  
William P Hanley Jr., Councilman  
Eugene P. Hart, Councilman

ABSENT:

The following resolution was offered by \_\_\_\_\_, who moved its adoption, seconded by \_\_\_\_\_, to-wit:

**NEGATIVE DECLARATION RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WEST SENECA, ERIE COUNTY, NEW YORK (THE "TOWN"), PURSUANT TO THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT CONCERENING THE FUNDING OF A PROJECT TO BE COMPLETED BY THE UNITED STATES ARMY CORP OF ENGINEERS**

WHEREAS, the Town Board of the Town of West Seneca (the "Town") is considering certain funding of a portion of work to be performed by the United States Army Corp of Engineers associated with waterway and drainage improvements to Cazenovia Creek in the Town and in particular modifications to the previously constructed Cazenovia Creek Ice Control Structure ("the Ice Control Facility") with such modifications hereinafter referred to as "the Project"; and

WHEREAS, pursuant to the requirements of the New York State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, 6 NYCRR Part 617.1 et seq. ("SEQRA"), the Town is required to review the potential impacts for actions which it directly undertakes or funds, including the Project here; and

WHEREAS, the Town, based upon review of the Project, has determined that it constitutes an unlisted action under SEQRA and therefore has commissioned the completion of a draft of the short environmental assessment form ("EAF") by the Town's consultant, Clark-Patterson Engineers; and

WHEREAS, the Town and its consultants have also reviewed the project cooperation agreement between the Department of the Army and the New York State Department of Environmental Conservation ("DEC") for the construction of the original Cazenovia Creek, West Seneca, New York Ice Control Facility which the Project is a modification thereof, and the Town, with the aid of its consultant, has reviewed the finding of no significant impact

("FONSI") dated September 2005 issued by the United States Army Corp of Engineers, as well as the Environmental Assessment completed for the Project also dated September 2005; and

WHEREAS, the Town has categorized the Project as an unlisted action and completed an uncoordinated review of the Project pursuant to the review of the referenced documents, including responses to the EAF.

**Name of Action:** Modifications to the Cazenovia Creek Ice Control Facility

**Applicant:** The United States Army Corps of Engineers is constructing the Project and the Town is partially funding such Project.

**Type of Action:** Unlisted

**Description of Action:**

Minor modifications and repairs needed for the Ice Control Facility constructed along and within Cazenovia Creek by the United States Army Corp of Engineers.

**Location of Action:**

The stream bank along Cazenovia Creek in the Town of West Seneca, Erie County, New York as well as the stream bed where the existing Ice Control Facility is located.

**Reasons Supporting This Determination:**

The Town has reviewed the documents referenced in the "whereas clauses" (which are incorporated by referenced) and has concluded that the funding of the Project will not result in a significant adverse impact on the environmental as such Project will improve the function of the Ice Control Facility to limit ice damming and such modifications will be constructed by the United States Army Corp of Engineers.

1. The Project Will Not Cause A Significant Adverse Impact to Land. For the reasons set forth in the documents referenced in the whereas clauses, including the finding of No Significant Impact dated September 2005 issued by the United States Army Corps of Engineers (previously referred to as “the FONSI”) and the Environmental Assessment completed in support of the FONSI, as well as the EAF completed by the Town for the Project, the work associated with the Project is not anticipated to have any adverse impact to land as it consists of mere modifications to the Ice Control Facility, designed to improve the function of the Ice Control Facility.

2. The Project Will Not Cause a Significant Adverse Impact to any Water Body, Wetlands or other protected Water Resources under New York Law. The Project will not adversely impact any surface water, or groundwater quality or quantity, nor will it adversely impact wetlands or any other surface waters. As discussed, the Project which will be constructed by the United States Army Corp of Engineers consists of modifications to the Ice Control Facility and will improve conditions in Cazenovia Creek by limiting ice damming, including by improving the function of the Ice Control Facility. There is a discrete impact noted to an area of wetland less than .10 of an acre, but based on the Army Corps findings in the FONSI, no significant adverse impact to the wetland identified is anticipated.

3. There Project Will Not Cause a Significant Adverse Impact to Endangered or Threatened Plants, Animals or Applicable Habitat. Construction and operation in the Project will not result in any significant adverse impact to any threatened or endangered species or sensitive habitat in the area of the Project. As demonstrated by the EAF mapper, as well as the FONSI and Environmental Assessment completed in 2005, the Project is not anticipated to have any significant adverse impact to endangered or threatened species or other habitats. As

discussed, the Project is limited to modifications to the existing Ice Control Facility, and because such structure has already been constructed and operated for some time without indication of any such significant impacts, the modifications associated with the Project are not anticipated to have a significant adverse impact on any such species or habitats.

4. The Project Will Not Cause a Significant Adverse Impact to Aesthetic Resources, Traffic or Air Quality. The Project is not anticipated to have any significant adverse impact to aesthetic resources, as it consists of discrete modifications to the existing Ice Control Facility located in and around Cazenovia Creek. Further, no additional traffic or other impacts associated with such construction or operation is anticipated (which could potentially result in air quality impacts) though presumably there will be some traffic associated with the modifications and is not expected to result in any material increase in traffic in the area of the Project.

5. The Project Will Not have any Significant Adverse Impact on Archeological resources, nor be impacted by any Remedial Sites, Nor Will the Project result in any Significant Adverse Impact to Open Space or Recreational Areas. The Project is not anticipated to have any significant adverse impacts associated with archaeological resources, as though the EAF indicates that such resources may be impacted, because the Project is limited to modifications to the Ice Control Facility already in place, no impacts to archaeological resources is anticipated as the area associated with the Project has already been disturbed. Similarly, while the EAF indicates that a remedial site is located in the area of the Project, no impacts from same are anticipated given the fact that the Project is limited to modifications to the Ice Control Facility and it has already been operated for some time. No impacts to transportation are anticipated, because the modifications to the ice control structure encompassed by the Project will not impact or cause any material increase to traffic in the area of the Project. Similarly, there will be no

significant adverse impacts to open space or recreational resources, for the reasons stated above, including the limited scope of the Project.

6. The Project Will Not Result in Any Significant Adverse Impact from Noise or Odors, nor Will the Project Cause any Significant Adverse Impact Associated with Growth or such Impact to the Character of the Community. The Project will not cause any significant adverse impact from noise or odors associated with its operation or construction because it is limited to modifications to the Ice Control Facility. Similarly, there will be no significant adverse impact to community character, including any growth inducing impacts because of the limited scope of the Project.

NOW, THEREFORE, BE IT RESOLVED:

Upon a thorough and due consideration by the Town of the Environmental Assessment Form completed for the Project, as well as its consideration of the United States Army Corps of Engineers' Finding of No Significant Impact as and Environmental Assessment as referenced herein, as well as the additional information provided by the Town's consultant, the Town makes the following findings:

- a. The Town has considered the Project pursuant to the parameters and criteria set forth in the applicable provisions under SEQRA, including those found under 6 NYCRR §§ 617.2 and 617.3.
- b. The Town has classified its review and approval of the Project as an unlisted action pursuant to applicable regulations and criteria and conducted an uncoordinated review of the Project.
- c. The Town has carefully reviewed and completed a short EAF for the Project, as well as reviewing the other matters referenced herein, including extensive documentation

prepared by the United States Army Corps of Engineers in the form of a Finding of No Significant Impact and underlying Environmental Assessment and it has determined that the Project will not result in any significant adverse environmental impact.

- d. This resolution has been prepared in accordance with Article 8 of the New York Environmental Conservation Law by the Town of West Seneca.
- e. The requirements of SEQRA have been satisfied.
- f. This resolution shall take effect immediately

The following vote was taken and recorded in the public or open session of said meeting:

AYES:

NAYS: