

**New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3**

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Joe Martens  
Commissioner

October 24, 2014

Jason Cosenza, Town Clerk  
Ulster Town Hall  
1 Town Hall Drive  
Lake Katrine, New York 12449

Re: SEQR Lead Agency Designation  
Proposed Niagara Water Bottling Facility (605 Boices Lane)  
Town of Ulster, Ulster County

Dear Mr. Cosenza:

This is in response to your notice dated September 22, 2014 requesting SEQR Lead Agency Status for the above noted project. Based upon the information provided, the proposed project is a Type I action in accordance with 6 NYCRR Part 617, State Environmental Quality Review Act, a project or action that involves the physical alteration of 10 or more acres.

Based upon our review of the circulated documents, the New York State Department of Environmental Conservation (DEC) has identified the following approvals:

- 1. Protection of waters** – Please note that Esopus Creek [Index # H-171] has a class and standard of B, according to 6 NYCRR Part 861, Item 2, therefore any physical alteration to the bed or banks will require an Article 15, Protection of Waters Permit, including the new proposed wastewater outfall from the Town of Ulster's WWTP.

If a permit is not required, please note that the project sponsor is still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

- 2. Water Quality Certification** – The United States Department of the Army, Corps of Engineers' New York District Office (USACE) has authority under federal law to regulate wetlands in New York State. An USACE permit may be required for this proposal. You should have the project sponsor contact the USACE (telephone: 917/790-8411) as early as possible in the planning process to determine if the project will involve federally regulated wetlands. If federal wetlands are involved, the USACE may require Water Quality Certification from DEC.

- 3. Water Service** – It appears that the project site is located within the Town of Ulster Water District and will be provided with water purchased from the City of Kingston. Any Determination of Significance should address the full build-out of the facility, specifically the source of the estimated 1.75 MGD of water that will be required from the City of Kingston. This is consistent with the SEQR requirement of reviewing the “whole action”. Therefore, DEC suggests that all known or reasonable anticipated phases of the proposed project be considered in the determination of significance. If later phases are uncertain as to design or timing, their likely environmental significance should still be examined as part of the whole action by considering the potential impacts of the total known build-out.

If the proposal causes the City of Kingston to require a change or amendment to any permit condition that is currently in force, including an increase the amount of water to be withdrawn greater than what is currently permitted, in order to prevent over-allocation or use of a water source or to protect the environment and the health, safety and welfare of the public then the City of Kingston will be required to modify its existing Water Withdrawal Permit, pursuant to 6 NYCRR Part 601.

- 4. SPDES Wastewater** – According to the information provided as part of the environmental assessment form, 342,500 gpd of “non biologic” wastewater will be conveyed via the installation of a separate sanitary main to the Town of Ulster WWTP. This wastewater stream will be discharged to the Esopus via a new wastewater outfall. An engineering report must be prepared to confirm the capacity of the Ulster Wastewater Treatment Plant to serve the proposed project. In addition, approval of plans for any proposed sewer extensions or facility expansions will be required from DEC, including any required modifications to the existing SPDES Permit.
- 5. SPDES Stormwater (Construction)** – As proposed project activities will disturb over 1 acre of land, the project sponsor must obtain coverage under the current SPDES General Permit (GP-0-10-001) for Stormwater Discharge from Construction Activities, and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. As the Town of Ulster is an MS4 community (Municipal Separate Storm Sewer System), the Town is responsible for review and acceptance of the SWPPP. [The MS-4 Acceptance Form must be submitted to the Department.] Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.
- 6. Cultural Resources** – We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicated that the project is located within an area considered to be sensitive with regard to archaeological resources. For more information, please visit the New York State Office of Historic Preservation website at <http://nysparks.state.ny.us/>.
- 7. Floodplains** - It appears that the site is within the mapped 100-year, and 500-year, floodplain, according to Federal Emergency Management Agency’s Map No. 36111C0460E. The potential impacts of development within these areas should be evaluated during the review of the project pursuant to SEQR. In order to develop within the 100-year floodplain, the project sponsor must apply for and receive a floodplain development permit from the Town of Ulster, and must comply with local floodplain development requirements.

SEQR LEAD AGENCY DESIGNATION  
Proposed Niagara Water Bottling Facility (605 Boices Lane)  
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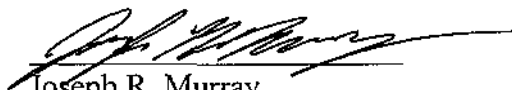
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This Department is charged with providing technical assistance to local communities in carrying out their responsibilities under the National Flood Insurance Program. Technical questions pertaining to floodplain management and its relation to the National Flood Insurance Program should be directed to NYSDEC Bureau of Flood Protection and Dam Safety at (518) 402-8185.

In addition to transmitting the above comments, this letter also serves to confirm that we have no objection to the Town of Ulster Town Board assuming lead agency status for this project. As such, it will be the responsibility of the Town of Ulster Town Board to determine the significance of the action.

If you have any questions or comments about this letter, please contact me at (845) 256-3040.

Sincerely,



Joseph R. Murray  
Environmental Analyst  
Division of Environmental Permits

cc: U.S. Army Corp Engineers – NY District  
City of Kingston  
The Chazen Companies – Poughkeepsie Office