

# New York State Department of Environmental Conservation

## Environmental Permits, Region 8

6274 East Avon-Lima Rd, Avon NY 14414-9516

Phone: (585) 226-5400 • Fax: (585) 226-2830

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



Alexander B. Grannis  
Commissioner

October 1, 2009

Gordon Wright, Chairman  
Town of Reading Planning Board  
P O Box 5  
Reading Center NY 14876

**Regarding: SEQR LEAD AGENCY**  
Inergy Midstream LLC / Finger Lakes LPG Storage LLC  
Liquified Petroleum Gas Storage Facility  
Town of Reading, Schuyler County

Dear Mr. Wright:

Our staff has reviewed the materials received September 11, 2009 regarding the LPG storage facility referenced above.

While the required Article 23 application for LPG storage at the site has not yet been received by the Department, please note that it has been Department policy since 1992 to seek SEQR Lead Agency status for all Article 23 applications, including Underground Storage Permit applications.

The Department has exclusive authority to regulate the oil, gas, and solution mining industry except for matters concerning local roads and real property taxation in accordance with Environmental Conservation Law (ECL) Article 23 [ECL §23-0303(2)]. In July 1992, the Department issued a Final Generic Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program (FGEIS). The FGEIS establishes the basis for environmental reviews and approvals of Department actions subject to the Oil, Gas, and Solution Mining law and provides as follows:

*Lead Agency - "In 1981, the legislature gave exclusive authority to the Department to regulate the oil, gas and solution mining industries.... The criteria for lead agency specify that the lead agency should be the one that has the broadest governmental powers for investigation into the impacts and the greatest capability for the most thorough environmental assessment of the action. These criteria would support the Department as lead agency." (P. 15, FGEIS).*

Please also note that the law mandates coordination with local governments after a completeness determination has been made. After completeness determination has been made and if the local government has provided comments, the Department will do the following:

If the Department finds that the comments made by the local government are reasonable and necessary, the Department shall incorporate these into the permit, if one is issued. If the Department does not agree that the comments are justifiable, then the Department shall provide a written statement to the local government and the applicant, as to the reason why the comments have not been incorporated.

Should the Town of Reading wish to be lead agency, a dispute may be brought before the Commissioner of Environmental Conservation in accordance with the SEQR rules and regulations (Title 6 of the Official Compilation of Codes Rules and Regulations, §617.6(e)).

If you have any questions, or need clarification, please contact me at this office.

Sincerely,



Roger McDonough  
Environmental Analyst  
Division of Environmental Permits

cc: J. Dahl - Division of Mineral Resources  
L. Collart - Division of Mineral Resources  
P. Lent - Regional Permit Administrator  
R. Nemecek - Natural Resources Supervisor  
W. Moller - Inergy Midstream LLC  
M. Armstrong - Finger Lakes LPG Storage LLC

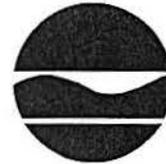
**NYS Department of Environmental Conservation**

10/1/2009

Region 8 - Division of Environmental Permits  
6274 East Avon-Lima Road  
Avon, New York 14414-9519

Phone: (585) 226-5400 Fax: (585) 226-2830

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



*Alexander B. Grannis*  
Commissioner

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**READING (T)**  
**GORDON WRIGHT, CHAIR-TOWN OF READING PLANNING BOARD**  
**PO BOX 5**  
**READING, NY 14876-**

Re: SEQR REVIEW

Dear GORDON WRIGHT,

The following comments are based upon the location information provided in your inquiry of:  
FINGER LAKES LPG STORAGE

401 Water Certification

Work in certain waters and wetlands of the United States may require a permit from the U. S. Army Corps of Engineers (Corps). If a Corp permit is required, the Corps may request that the DEC make a determination (Water Quality Certification, pursuant to Section 401 of the Federal Clean Water Act) that discharges from the proposed activities, for which an applicant is seeking a Corps permit approval, will comply with the applicable effluent limitations, water quality standards, and any other applicable conditions of the State Law. The Buffalo Office of the Corps should be contacted regarding permit jurisdictions. Their address is Chief Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo NY 14207. Their phone number is (716) 879-4330. Documentation in support of a 401 Water Quality Certification would include demonstration of compliance with either the Department's State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-0-08-001) or the MS4 (Municipal Separate Storm Sewer Systems). This documentation would include Stormwater Management Plans for the project and a completed Self Assessment Stormwater Management Checklist, submitted and signed by a licensed professional engineer. The checklist can be obtained from the Division of Environmental Permits, NYSDEC-Region 8 Headquarters, 6274 East Avon - Lima Road, Avon NY 14414 or by phone at (585) 226-5400.

Stormwater General Permit - Construction

This project may need to be in compliance with either the State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-0-08-001) or the MS4 (Municipal Separate Storm Sewer Systems) General SPDES Permit (GP-0-08-002) (if located within an MS4's jurisdiction). Operators of construction activities that involve one acre or more of land disturbance (or may be less in an MS4's area) must obtain SPDES permit coverage through either an individual permit or either GP-0-08-001 or GP-0-08-002. To obtain coverage under a General Permit, all conditions of the permit must be met, including preparation and implementation of an appropriate Storm Water Pollution Prevention Plan (SWPPP) and the filing of a completed Notice of Intent (NOI) form with the NYSDEC. For further information and required forms, see the NYSDEC website at: <http://www.dec.ny.gov/chemical/8468.html>. If you believe your project would be covered under one or more of the General Permits and would NOT require any other DEC permits, you may apply for coverage by filing a Notice of Intent with NYSDEC Division of Water, 625 Broadway, Albany NY 12233-3505. If your project involves other DEC permits, please contact this office.

## Federal Wetlands

While the Department asserts jurisdiction over NYS regulated freshwater wetlands, the U. S. Army Corps of Engineers regulates federally protected wetlands. For questions regarding federal wetlands, and the federal permitting process, contact the U. S. Army Corps of Engineers at: Chief, Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, NY 14207 or (716) 879-4330.

## Historic, Architectural, Archeological, and Cultural Resources

A review of the NYS Archaeological Site Map (circles & squares map) indicates that the project site is not located within an archaeologically sensitive area.

## Biotic Communities/Endangered and Threatened Species of Flora and Fauna

We have reviewed the available information in the New York State Natural Heritage Program databases for known occurrences of federally-listed or proposed endangered or threatened species; state-listed endangered, threatened or rare animal and plant species; significant natural communities; and other significant habitats. No occurrences were found in the vicinity of the project site.

For most sites, comprehensive field surveys have not been conducted; the enclosed information only includes records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

## NYS Protection of Waters Permit NOT Required/Potential for Army Corps Of Engineers Approval

The stream(s) near/in the project area has (have) a NYS Stream Classification of Class C, and is therefore not considered a NYS protected water body. A determination has been made that the stream would not be considered a navigable stream as defined in the Protection of Water Regulations (6NYCRR Part 608). As this section of stream is not navigable or protected, disturbance of the stream's channels and banks will not require a permit from the DEC. Standard sedimentation and erosion controls should be employed to avoid contravention of the water quality standards. However, your project may be subject to Federal regulations. You should contact the United States Army Corps of Engineers' staff at the Buffalo District Office, 1776 Niagara Street, Buffalo NY 14207. They can also be reached by phone at (716) 879-4330.

## Stream Protection Recommendations

A portion of a stream is located on the subject property. Streambanks, sometimes called riparian zones or stream corridors, are the link between land and water, and the health of streams depends in large part on the condition of the streamside. Over the past two decades, research has shown that naturally vegetated corridors along streams perform numerous services essential for human health and welfare. Healthy stream corridors can reduce floods; trap sediment; remove dissolved contaminants; provide shade; contribute leaf matter (important for insect food and fish habitat); provide wildlife habitat; offer recreational opportunities; and increase aesthetic value and desirability of a property.

In order to protect the stream corridor consider the following:

Maintain a healthy, vegetated streamside buffer by preserving trees and shrubs along the stream edge and limiting logging to removing large branches that fall into the stream and divert streamflow and cause erosion.

Control water flow through the streamside buffer to filter contaminants and reduce erosion by managing stormwater runoff from dwellings to prevent channelized flow; minimizing impervious areas near the streamside by using stone or brick instead of pavement for driveways and walkways; and excluding vehicles, livestock, or excessive pedestrian traffic.

Prevent contaminants from entering the stream corridor by minimizing or eliminating buffer area exposure to fertilizer, herbicides, pesticide, animal waste, household and automotive chemicals, trash, debris, and piles of leaf litter and by maintaining septic systems.

Additional Comments:

See enclosed letter regarding SEQR Lead Agency.

Thank you for the opportunity to review this project. Forms may be obtained on the DEC Website at: [www.dec.ny.gov](http://www.dec.ny.gov). If you have questions regarding the information provided in this letter, please don't hesitate to contact me at (585) 226-5391.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger McDonough".

Roger McDonough  
Division Of Environmental Permits