

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter

- of -

the Application for an Underground Storage of Gas Permit
Pursuant to Environmental Conservation Law Article 23, Title 13,

- by -

FINGER LAKES LPG STORAGE, LLC,

Applicant.

DEC Permit Application ID No. 8-4432-00085

OHMS Case No. 201166576

**SUPPLEMENTAL RULING OF THE CHIEF ADMINISTRATIVE LAW JUDGE
ON ISSUES AND PARTY STATUS AND
ORDER OF DISPOSITION**

November 6, 2017

**SUPPLEMENTAL RULING OF THE CHIEF ADMINISTRATIVE LAW JUDGE
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I. PROCEEDINGS

Applicant Finger Lakes LPG Storage, LLC (applicant or Finger Lakes LPG), a subsidiary of Crestwood Midstream Partners, L.P. (Crestwood), applied to the Department of Environmental Conservation (Department) for permits to construct and operate a new underground liquefied petroleum gas (LPG) storage facility for the storage and distribution of propane on a portion of a 576-acre site located on NYS Routes 14 and 14A west of Seneca Lake in the Town of Reading, Schuyler County, approximately 2.5 miles north of the Village of Watkins Glen (Seneca Lake facility). The storage facility would use existing solution-mined underground caverns in the Syracuse salt formation created by U.S. Salt, LLC (an affiliate of Finger Lakes LPG owned by Crestwood [U.S. Salt]) and its predecessors' salt production operations. The existing caverns are located near the western shore of Lake Seneca. Associated surface facilities would extend uphill to the west with compressors east of NYS Route 14 south of the intersection with NYS Route 14A. A brine pond and flare stack would be located south of NYS Route 14A west of the intersection with NYS Route 14.

Department staff referred the matter to the Department's Office of Hearings and Mediation Services for permit hearing proceedings pursuant to 6 NYCRR part 624 (Part 624) with the undersigned presiding. After conducting a pre-adjudicatory hearing issues conference, I issued a ruling on issues and party status (see Matter of Finger Lakes LPG Storage, LLC, Ruling of the Chief Administrative Law Judge [ALJ] on Issues and Party Status, Sept. 8, 2017 [Issues Ruling]).¹ In that ruling, I reopened the issues conference record for clarification and possible further record development on the issue of possible alternative project sites (see id. at 61-65, 73). Accordingly, I gave applicant until September 22, 2017, to confirm whether it owned or had options on other sites in New York that contain salt caverns other than applicant's Savona LPG facility and, if so, to provide an alternatives analysis for those sites. I authorized Department staff and full party status petitioners Seneca Lakes Pure Waters Association (SLPWA), Gas Free Seneca (GFS), and the Seneca Lake Communities (SL Communities)² (collectively "petitioners") to respond to applicant's submissions by October 6, 2017 (see id. at 73).

¹ For a complete discussion of the procedural posture of this proceeding up to the issuance of the Issues Ruling, see the Issues Ruling at 1-11.

² Seneca Lake Communities includes Seneca County, Yates County, Town of Fayette, Town of Geneva, Town of Ithaca, Town of Romulus, Town of Starkey, Town of Ulysses, Town of Waterloo, City of Geneva, Village of Watkins Glen, and Village of Waterloo.

With respect to the remaining issues proposed for adjudication raised by petitioners, I concluded that petitioners failed to raise any issues under ECL article 23 or the State Environmental Quality Review Act (ECL art 8 [SEQRA]). Nevertheless, I accepted petitioners' submissions as filed as comments on the draft supplemental environmental impact statement (DSEIS) prepared in this matter.

With respect to party status, I denied the late-filed petition for full party status filed by Schuyler County Legislators Harp and Lausell, and denied SLPWA's application to supplement its party status petition to raise an issue concerning the authority of the State Geologist to approve applicant's project (see id. at 41-43, 71-73). I granted amicus party status to all amicus party petitioners (see id. at 72-73). I reserved decision on full party status for SLPWA, GFS, and SL Communities pending completion of the SEQRA record on alternative sites (see id. at 71).

Finally, I directed Department staff to issue a further revised draft permit containing conditions consistent with the Issues Ruling. On September 21, 2017, Department staff issued a further revised draft permit in both clean and tracked changes versions. The further revised draft permit has been marked NYSDEC OHMS Document No. 201166576-00078A and B (see Issues Conference Exhibit List, updated Nov. 3, 2017, attached).³

By letter dated September 22, 2017, applicant confirmed that it does not own or have any options on other sites in New York that contain salt caverns other than the Savona LPG facility (see OHMS Doc. No. 00079). Petitioners each filed responses to applicant's September 22, 2017 submission: SL Communities' submission is dated October 5, 2017 (OHMS Doc. No. 00080), and GFS's (OHMS Doc. No. 00081) and SLPWA's (OHMS Doc. No. 00082) submissions are each dated October 6, 2017.

By letter dated October 11, 2017, Department staff objected to the October 5 and 6, 2017 submissions by SL Communities, GFS, and SLPWA, and requested that they not be considered part of the record of this proceeding on the ground that the submissions went beyond the issue of applicant's alternative sites. In the alternative, staff requested permission to respond to petitioners' submissions. By email dated October 13, 2017, I reserved decision on staff's request to reject the submissions, but granted staff's request for permission to submit a response. Department staff filed its response dated October 27, 2017 (OHMS Doc. No. 00083).

³ Each document is marked as "NYSDEC OHMS Document No. 201166576" followed by a hyphen and a five digit suffix (see Exhibit List, attached). Here after, documents will be referenced as "OHMS Doc. No." followed by the five digit suffix. If the document also appears on the document list last updated November 3, 2017 (see attached), the document is also identified with "Doc. List" and the document list number.

In a letter from GFS dated October 31, 2017 (OHMS Doc. No. 00084) and letters from SLPWA dated October 31, 2017 (OHMS Doc. No. 00085) and November 1, 2017 (OHMS Doc. No. 00086), petitioners requested permission to further supplement the record on alternatives with press releases announcing Crestwood's sale of U.S. Salt to an affiliate of Kissner Group Holdings LP (see OHMS Doc. No. 00084, Exhs A and B). Petitioners assert that without the U.S. Salt facilities, Finger Lakes LPG cannot operate its LPG storage facility as described in the DSEIS, the availability of the U.S. Salt plant and brine ponds at the Finger Lakes facility is no longer a feature that makes the Finger Lakes facility preferable over the alternative Savona LPG facility, and Finger Lakes LPG may no longer be able to comply with ECL 23-1301(1)(c), which requires an applicant for an underground storage of gas permit to own or control at least 75 percent of the storage rights in the storage reservoir and buffer zone, among other arguments. Finger Lakes LPG filed a response to petitioners' letters by letter dated November 2, 2017 (OHMS Doc. No. 00087).

II. DISCUSSION – ALTERNATIVE SITES

SEQRA requires that a draft EIS include a detailed statement setting forth alternatives to the proposed action (see ECL 8-0109[2][d]). Among the alternatives to be considered are alternative sites for the project (see 6 NYCRR 617.9[b][5][v]). Where, as here, a private project sponsor is involved, site alternatives may be limited to parcels owned by, or under option to, the private sponsor (see id.).

The issues conference record was unclear whether applicant owned or had options on potential alternative project sites other than its Savona LPG facility. Accordingly, in the Issues Ruling, I directed applicant to confirm whether it owned or had options on other sites in New York that contained salt caverns other than the Savona facility and, if so, to provide an alternative analysis for those sites (see Issues Ruling at 65, 73).

In its September 22, 2017 response, applicant confirmed that it did not own or have options on other sites in New York other than the Savona LPG facility (see OHMS Doc. No. 00079). Petitioners' submissions in response do not dispute applicant's confirmation or otherwise raise adjudicable issues concerning alternative project sites under applicant's control. Accordingly, no adjudicable issues on alternative project sites under applicant's control are presented.

In their October 5 and 6, 2017 submissions, however, petitioners raise two new developments since the 2015 issues conference they assert are relevant to the DSEIS's alternatives analysis and should be considered in this proceeding. The first development is the opening of a new, fully operational propane rail terminal in Montgomery, Orange County, New York, by applicant's parent company, Crestwood (see e.g. Press Release, Crestwood Announces the Opening of its New Propane Rail Terminal in Montgomery, New York, OHMS Doc. No.

00081, Exh A). Petitioners argue that the Montgomery facility replaces the proposed Seneca Lake facility as a propane distribution center for the northeastern United States.

The second development is applicant's expansion of the storage capacity of its Savona LPG facility. Petitioners note that applicant has applied for and received permits from the United State Environmental Protection Agency (EPA) to create and expand existing and future storage caverns at the Savona facility (see OHMS Doc. No. 00081, Exhs B and C). Petitioners argue that the additional storage capacity approved by the EPA at the Savona facility, coupled with the large volume of product Crestwood can distribute from the Montgomery facility, constitute reasonable and feasible alternatives to the proposed Seneca Lake facility that avoid adverse environmental impacts to Seneca Lake and the surrounding community, and should be considered as part of the "no action" alternative under SEQRA for this project.

Department staff objects to inclusion into the record of petitioners' October 2017 submissions on the ground that they go beyond the issue of alternative sites for which they were authorized. On the merits, Department staff asserts that, given applicant's objective – to establish a LPG distribution center in depleted salt caverns to service the New York LPG market – neither the Savona facility nor the Montgomery facility constitute reasonable and feasible alternatives to the proposed Seneca Lake facility. Department staff notes that the Savona facility is already being used to store LPG and that it would take over twenty years to develop cavern space, with concomitant environmental impacts associated with solution mining and brine disposal, to replace the storage capacity already available at the proposed Seneca Lake facility. With respect to the Montgomery facility, staff notes that its above ground storage capacity is less than one percent of the proposed capacity of the Seneca Lake facility, and that no underground salt caverns can be developed at the Montgomery site because of a lack of salt beds in that location. Accordingly, staff argues that neither facility constitutes a reasonable alternative to the proposed Seneca Lake facility.

As petitioners note, a lead agency under SEQRA is under a continuing duty to evaluate new information relevant to the environmental impact of its actions, and provide for additional record development if necessary (see Glen Head – Glenwood Landing Civic Council, Inc. v Town of Oyster Bay, 88 AD2d 484, 494-495 [2d Dept 1982]; see also Matter of Jackson v New York State Urban Dev. Corp., 67 NY2d 400, 429-430 [1986]; 6 NYCRR 617.9[a][7]). Here, the new information is not related to an adverse environmental impact from applicant's proposed Seneca Lake project. However, the new information is relevant to both the "no action" alternative to the project, and the project's purpose, public need and benefits (see 6 NYCRR 617.9[b][5][i], [v]). No factual dispute is raised by petitioners' or staff's submissions and, thus, no adjudicable issues are presented. However, petitioners' October 5 and 6, 2017 submissions and Department staff's response are accepted as filed as comments on the DSEIS, and the record on project alternatives is closed.

Finally, with respect to petitioners' October 31 and November 1, 2017 submissions, applicant states that although Crestwood is selling U.S. Salt, the sale does not

impact the Finger Lakes project. Applicant asserts that in November 2011, U.S. Salt conveyed by deed the property that constitutes Finger Lakes Galleries 1 and 2, and the agreement to sell U.S. Salt does not impact that property ownership. Applicant also asserts that it retains the right to install over U.S. Salt's property the water, brine, and product pipelines that are part of the Finger Lakes project. Applicant also retains the ability to send brine to and obtain brine from U.S. Salt if needed. Accordingly, the sale of U.S. Salt raises no adjudicable issues concerning Finger Lakes LPG's compliance with the ECL or the sufficiency of the DSEIS. The parties' submissions are accepted as filed to clarify the record regarding the impact of the sale of U.S. Salt on applicant's project.

III. RECORD

Contemporaneous with the Issues Ruling, I also issued a ruling on applicant's motion to affirm the confidentiality of documents contained on a compact disc of materials that applicant submitted to the Department in support of its application (see Matter of Finger Lakes LPG Storage, LLC, Ruling of the Chief ALJ on Motion To Affirm Confidentiality of Protected Materials, Sept. 8, 2017 [Confidentiality Ruling]). Applicant argued that the documents were exempt from disclosure under the Freedom of Information Law (Public Officer Law art 6 [POL or FOIL]) on the ground that they contained information exempt from disclosure under ECL 23-1303, that they contained confidential commercial information, trade secrets, or critical infrastructure information, or that they were exempt from disclosure under a combination of grounds.

In the Confidentiality Ruling, I granted in part and otherwise denied applicant's motion (see id. at 20). With respect to the denial in part, I concluded that some documents were releasable either in whole or subject to redaction as indicated on the confidential documents list attached to the Ruling (see id., Appendix A). I directed applicant to provide the ALJ and the parties to the confidentiality agreement and order issued in this proceeding with a copy of a redacted version of applicant's revised response to the Department's second notice of incomplete application dated November 17, 2010 (see id., Item No. 51) and an unredacted version of applicant's April 11, 2012 Gallery 10 work plan report, exhibits A and B (see id., Item No. 62). I also directed applicant to provide me with an unredacted copy of the well 58 cross section (see id., Item No. 69) for in camera review.

Under cover of a letter dated September 14, 2017, applicant provided the documents as directed. With respect to the well 58 cross section, I agree with applicant that it is a page from a March 26, 2013 sonar report that was submitted to the Department in its entirety on July 1, 2013 (see id., Item No. 70), which I determined in the Ruling is exempt from

disclosure. Accordingly, no further ruling regarding the confidentiality of the cross section is necessary.⁴

Pursuant to the confidentiality agreement and order, and the Confidentiality Ruling, the parties had five business days from the issuance of the Ruling to move for reconsideration pursuant to 6 NYCRR 624.6(c), or seek leave to file an expedited appeal to the Commissioner pursuant to 6 NYCRR 624.8(d). No motions were filed and the time to seek leave to appeal from the Ruling has expired.

Accordingly, those documents I determined are releasable in whole or subject to redaction will be included in both the electronic and hard copy of the official hearing file. I request that Department staff post the documents I have determined are releasable, in whole or subject to redaction, on the Department's website page that contains applicant's application materials.

IV. RULING AND ORDER OF DISPOSITION

Full party status petitioners SLPWA, GFS, and SL Communities have failed to raise any adjudicable issues concerning available alternative sites for applicant's project. Because petitioners have not raised any issues under ECL article 23 or SEQRA requiring adjudication, the petitions for full party status are denied (see 6 NYCRR 624.5[d][1][ii]). Petitioners' filings, including the October 5 and 6, 2017 submissions, as well as Department staff's response, are accepted as filed, however, as comments on the DSEIS and may be considered by the final agency decision maker when making SEQRA findings.

Pursuant to 6 NYCRR 624.4(c)(5), further hearings in this proceeding are canceled and the hearing record closed. The matter is remanded to Department staff to continue processing the application to issue the requested permits.

V. APPEALS

By email dated October 17, 2017, the Commissioner's office modified the appeals schedule established in the September 8, 2017 Issues Ruling. Accordingly, appeals from the September 8, 2017 Issues Ruling and this supplemental issues ruling are due by 4:00 PM on Wednesday, November 15, 2017. Replies to any appeals are authorized and are due by 4:00 PM on Friday, December 15, 2017.

⁴ The unredacted hard and electronic copies of item no. 69 have been marked "Confidential" and are separately maintained in the hearing file in folders also marked "Confidential."

The original and two copies of each appeal and reply thereto must be filed with Commissioner Basil Seggos (Attention: Louis A. Alexander, Assistant Commissioner for Hearings and Mediation Services), at the New York State Department of Environmental Conservation, 625 Broadway (14th Floor), Albany, New York 12233-1010. In addition, one copy of each submittal must be sent to the undersigned, Department staff, and applicant at the same time and in the same manner as the submittals are sent to the Commissioner. Service of papers on the Commissioner, Department staff, applicant and the undersigned by electronic mail is permitted provided conforming hard copies are sent by regular mail and post marked by the due date. Service of papers by facsimile transmission (FAX) is not permitted, and any such service will not be accepted.

All papers shall be served upon the remaining parties on the service list by methods agreed to by the parties.

_____/s/_____
James T. McClymonds
Chief Administrative Law Judge

Dated: November 6, 2017
Albany, New York

Attachment: Issues Conference Exhibit List and Document List updated Nov. 3, 2017

Cc: Louis A. Alexander, Assistant Commissioner for Hearings and Mediation Services

To: Attached Service List

DOCUMENT LIST
Matter of Finger Lakes LPG Storage, LLC / DEC Application No. 8-4432-00085
Application Materials and Related Communications

Revised November 3, 2017

I. Application Documents (OHMS Doc. No. 201166576-00003)

A. Application Documents – Gas Storage

1. 2009-02-24, DEC to Inergy – Storage Permit Requirements
2. 2009-10-09, BSK to DEC – Storage Permit Application (redacted per ALJ Ruling)¹
3. 2010-01-07, FL to DEC, Moon to Collart Letter re Well 58 Proposed Storage Gallery 2 (redacted per ALJ Ruling)
4. 2010-01-11, DEC to FL-BSK – NOIA (released per ALJ Ruling)
5. 2010-05-14, BSK to DEC – NOIA Response (redacted per ALJ Ruling)
6. 2010-5-14, BSK to DEC – NOIA Response Reservoir Suitability Report (redacted per ALJ Ruling)
7. 2010-08-12, DEC to BSK – NOIA 2 (released per ALJ Ruling)
8. 2010-09-28, BSK to DEC – NOIA 2 Response (redacted per ALJ Ruling)
9. 2010-10-28, BSK to DEC - Well Logs and Evaluation (released per ALJ Ruling)
10. 2010-11-17, BSK to DEC – NOIA 2 Revised Response (redacted per ALJ Ruling)
11. 2011-03-28, DEC to BSK – NOIA 3
12. 2011-04-19, BSK to DEC – NOIA 3 Response (redacted per ALJ Ruling)
13. 2011-07-20, FL to DEC – Gallery 10 Work Plan and Blanket Thickness for Galleries 1 and 2
14. 2011-07-22, FL to DEC – Gallery 10 Work Plan Addendum

¹ Unredacted documents, except Doc. No. I.A.26, are contained on a compact disk (CD) marked as OHMS Doc. No. 201166576-00003B. ALJ Ruling refers to Ruling of the Chief Administrative Law Judge on Motion To Affirm Confidentiality of Protected Materials, Sept. 8, 2017.

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15. 2012-04-11, BSK to DEC – Gallery 10 Work Plan Report (redacted per ALJ Ruling)²
 16. 2012-04-11, BSK to DEC – Well Logs and Reports (redacted per ALJ Ruling)
 17. 2012-06-01, BSK to DEC – Gallery Map (redacted)
 18. 2012-10-03, FL to DEC – Gallery 10 Work Plan Approval
 19. 2012-10-03, FL to DEC – Gallery 10 Work Plan Response
 20. 2012-11-16, BSK to DEC – Gallery Map and X-Section (redacted)
 21. 2012-12-28, BSK to DEC – Gallery Map (redacted)
 22. 2013-01-18 – DEC to NYSGS – Determination Request
 23. 2013-01-22, BSK to DEC – Cavern 58 and Sevenker Letter
 24. 2013-03-07, FL to DEC – Well 33
 25. 2013-03-15, FL to DEC – NYSGS to DEC – State Geologist Approval Letter
 26. 2013-06-25, BSK to DEC – Well Drilling and Completion Reports (redacted)³
 27. 2013-07-01, BSK to DEC – Logs and Sonars (redacted per ALJ Ruling)
 28. 2013-07-24, BSK to DEC – Well Drilling and Well Completion Reports (redacted per ALJ Ruling)
 29. 2013-08-15, BSK to DEC – Maps and Table (redacted per ALJ Ruling)
 30. 2014-01-03 & 06, BSK, Istvan and Dionisio to DEC
 - 30A. 2014-08-28, Gallery Map and Section (redacted per ALJ Ruling)
 31. 2014-10-16, BSK to DEC, cover letter and maps (redacted per ALJ Ruling)
 32. 2014-10-23, BSK to DEC, cover letter and maps (redacted per ALJ Ruling)

² Electronic versions of Gallery 10 Work Plan Exhibits A (Wells 18 and 57 drill logs) and B (Well 29 drill logs) not provided.

³ Electronic copy of unredacted document is on a separate CD marked OHMS Doc. No. 201166576-00003C. Hard copy is in a separate file marked “Confidential.”

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33. 2014-10-29, FL to DEC, wellhead pressures for Well 58 (redacted)
 34. 2014-10-30, FL to DEC, wellhead pressures for Well FL1 (redacted)

B. Application Documents – Other than Gas Storage

1. 2009-10-14 to 2009-09-11 SHPA Documents
2. 2010-05-20, Air Facility Registration Package
3. 2011-10-31, Superior Energy Systems Letter to DEC
4. 2012-01-11, NYSDOT Letter to DEC
5. 2012-01-19, FL memo re public comments
6. 2012-01-20, BSK to DEC Supplemental Information, with 22 Attachments (Now specifically listed below with December 11, 2014 Document List revision.)

Attachment 1 East Brine Pond

Attachment 2 West brine pond

Attachment 3 Revised Site Operations Plan

Attachment 4 Brine Pond Liner Specifications

Attachment 5 CT Male Response to Public Comments regarding Brine Pond

Attachment 6 Wetlands Report

Attachment 7 Revised Sound Study

Attachment 8 Supplemental Traffic Information – Fingerlakes LPG Storage Facility

Attachment 9 NYSDOT letter

Attachment 10 Truck and Rail Product Allocation

Attachment 11 OBG Memo re Finger Lakes_Brine Pond_Birds

Attachment 12 Flare tower drawing

Attachment 13 Response to Public Comments regarding Geology Exh. 1

Attachment 13 Response to Public Comments regarding Geology Exh. 2

Attachment 13 Response to Public Comments regarding Geology

Attachment 14 Superior October 31, 2011 Letter

Attachment 15 Liquefied Petroleum Gas code 2011

Attachment 16 Superior December 8, 2011 Letter

Attachment 17 Dominick Smith Letter

Attachment 18 Faulting and fluid flow through salt

Attachment 19 Basement faults in the Appalachian Basin

Attachment 20 Definition of Trenton Black River Prospects

Attachment 21 Rock engineering problems

Attachment 22 Fractures and their relation to other geological data

Attachment 22 Part 2, Fractures and Geological Data

7. 2012-02-16, BSK to DEC Supplemental Information, with 5 Exhibits
(Now specifically listed below with December 11, 2014 Document List
revision.) (Exhibit 5 in two files)

Exhibit 1 QRA

Exhibit 2 Brine_Pond_Operations_Plan

Exhibit 3 Revised Site Operations Plan

Exhibit 4 Revised Surface Facility Site Plan

Exhibit 5 Part 1 USACE_PCN_20120214.FINAL

Exhibit 5 Part 2 Wetlands. Addendum II. Final

8. 2012-02-16, Quantitative Risk Assessment, Quest Consultants
9. 2012-03-05, DEC to BSK, NOIA
10. 2012-03-19; BSK to DEC, WQC Response
11. 2012-04-03, BSK to DEC, Pre-Construction Notification

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12. 2012-04-09, DEC to BSK, NOIA
 13. 2012-04-10, Quest Consultant Letter to BSK re. Quantitative Risk Assessment
 14. 2012-05-18, USACE Nationwide Permit Letter
 15. 2012-05-22, CT Male Engineering and Geotechnical Investigation Reports, Two Volumes, with appendices, figures, and 18 drawings
 16. 2012-06-08, DEC to Wakeman, Phaneuf E-mail
 17. 2012-06-15, CT Male Revised Engineering and Geotechnical Investigation Reports, Cover Letter, Two Volumes, and 11 drawings (Now specifically listed below with December 11, 2014 Document List revision.)

DWFs

04 P3 Overall Site Plan (34X44) 2012.06.15

05 P4 Grading Plan East Pond (34x44) 2012.06.15

06 P5 Grading Plan West Pond (34x44) 2012.06.15

08 XS1 Section East Brine Pond (34x44) 2012.06.15

09 XS2 Section West Brine Pond (34x44) 2012.06.15

10 XS3 Section West Brine Pond (34x44) 2012.06.15

12 D2 BERM DETAILS (34x44) 2012.06.15

13 D3 PUMP HOUSE DETAILS (34x44) 2012.06.15

16 ESC1 EROSON CONTROL PLAN East Pond (34x44) 2012.06.15

17 ESC2 EROSON CONTROL PLAN West Pond (34x44) 2012.06.15

18 ESC3 EROSON CONTROL DETAILS (34x44) 2012.06.15

2012.06.15_Volume1 Engineer's Report Revisions

2012.06.15_Volume2 Geotechnical Investigation REVISIONS

2012-06-15_CTMaletoDEC_CoverLetter

plot.log

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18. 2012-07-18, BSK to DEC
 19. 2012-07-23, DEC to BSK, Additional Information Request
 20. 2012-08-06, DEC to BSK, SWPPP Comments
 21. 2012-08-20, JessEng to DEC, SWPPP Information
 22. 2012-08-21, CT Male Brine Pond Information
 23. 2012-08-24, BSK to DEC, Water Well Information
 24. 2012-09-09, SWPPP Revision 4, Jess Engineering, Cover Letter, Notice of Intent, and Eight Report Sections
 25. 2012-09-10, CT Male Brine Pond Engineering Report and Plans, 2 Report Volumes and 23 Drawings.
 26. 2012-09-12, BSK to DEC, Finger Lakes/US Salt Schematic
 27. 2012-10-23, DEC to BSK, Additional Information Request
 28. 2012-11-09, BSK to DEC, Additional Information
 29. 2013-07-13, Landscaping Plan for Transfer Facility
 30. 2013-09-09, BSK to DEC, Additional Information Email
 31. 2014-02-21, BSK to DEC, Company Information
 32. 2014-03-07, Hunt Revised Sound Study, with report revised July, 2013
 33. Town of Reading Emergency Response Plan, 2007
 34. 2014-11-14, Draft Environmental Monitoring Plan
 35. 2014-11-20, Visual Impact Analysis
 36. 2014-12-02, Product Transportation Allocation – Revised December 2014, letter and attachment
 37. 2014-12-29, DEC to BSK, Additional Information Request
 38. 2015-01-28, C.T. Male Associates to DEC, Additional Information (letter and attachments)
 39. 2015-02-06, DEC to BSK, Reply regarding TCE / EMP

II. Freedom of Information Law Documents (OHMS Doc. No. 00004)

- A. FOIL 10-0541 Correspondence (Requester – Mantius)
- B. FOIL 10-0834 Correspondence (Requester – Mantius)
- C. FOIL 10-2260 Correspondence (Requester – Mantius)
- D. FOIL 10-2517 Correspondence (Requester – Mantius)
- E. FOIL 10-2927 Correspondence (Requester – Bartholomew)
- F. FOIL 11-1732 Correspondence (Requester – Campbell)
- G. FOIL 12-1773 Correspondence (Requester – Campbell)
- H. FOIL 13-0317 Correspondence (Requester – Campbell)
- I. FOIL 13-3540 Correspondence (Requester – EJ)

III. Public Comments (OHMS Doc. No. 00005)**A. Comment Letters**

- 1. Comment Letters Tab A
- 2. Comment Letters Tab B
- 3. Comment Letters Tab C
- 4. Comment Letters Tab D
- 5. Table 1 Index of Public Comment Letters

B. Hearing Transcripts

- 1. 2011-09-27 Hearing 1
- 2. 2011-11-03 Hearing 2

C. Post-Hearing Comments – various, ranging from 2011 to present

IV. SEQR Documents (OHMS Doc. No. 00006)**A. Accepted DSEIS**

1. Final DSEIS Text
2. DSEIS Figures
 - a. DSEIS Figure 1
 - b. DSEIS Figure 2
 - c. DSEIS Figure 2a Site Plan
 - d. DSEIS Figure 2b Site Operations Plan
 - e. DSEIS Figure 3
 - f. DSEIS Figure 4
 - g. DSEIS Figure 5
 - h. DSEIS Figure 6
 - i. DSEIS Figure 7
 - j. DSEIS Figure 8
 - k. DSEIS Figure 9
 - l. DSEIS Figure 10
3. DSEIS Appendices A-E and G-N, Consisting of 23 Files
4. DSEIS Appendix F, Engineers Report
 - a. Volume 1
 - b. Volume 2
 - c. Volume 1 Appendices
 - d. Drawings 1-13
 - e. Figures 1-3
5. DSEIS Appendix O, Underground Storage Application

B. DSEIS Review and Hearings

1. 2011-04-28, DEC to BSK, DSEIS Review Comments
2. 2011-07-11, DEC to BSK, DSEIS Review Comments
3. 2011-08-17, DEC to BSK, NOCA and First Hearing Notice
4. 2011-09-28, BSK to DEC, First Hearing Notice Affidavit
5. 2011-10-03, BSK to DEC, Hearing Letter
6. 2011-10-05, DEC to BSK, NOCA and Second Hearing Notice
7. 2011-10-17, BSK to DEC, Second Hearing Notice Affidavit

C. Lead Agency

1. 2009-09-11, Wright to DEC – Lead Agency Coordination Request
2. 2009-10-01, DEC to Wright – Lead Agency Coordination Letter
3. 2009-10-07, DEC to Wright – Jurisdiction Letter
4. 2009-10-09, DEC to Wright – Correction Letter
5. 2009-10-09, Wright to DEC – Lead Agency Designation Extension
6. 2009-10-19, DEC to Wright – Lead Agency Designation Inquiry
7. 2009-10-23, BSK to DEC – Lead Agency Comments
8. 2009-10-28, Lent to Commissioner – Lead Agency Designation Request
9. 2009-11-6, BSK to Commissioner – Lead Agency Comments
10. 2009-11-16, DEC to Wright – Lead Agency Designation Request
11. 2009-11-22, DEC to Ewing – Lead Agency Designation Request
12. 2010-02-02, SEQR Commissioner Lead Agency Designation

D. Positive Declaration and Scoping

1. 2010-02-09, DEC to FL – SEQR
2. 2010-02-26, BSK to DEC – Response Letter

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3. 2010-03-19, DEC to BSK – SEQR Review Comments
 4. 2010-04-27, BSK to DEC – Response Letter
 5. 2010-05-26, DEC to BSK – SEQR Review Comments
 6. 2010-06-18, BSK to DEC – Response Letter
 7. 2010-07-14, DEC to BSK – SEQR Review Comments
 8. 2010-07-23, BSK to DEC – Response Letter
 9. 2010-08-20, DEC to BSK – SEQR Review Comments
 10. 2010-09-20, BSK to DEC – SEQR Review Noise Letter
 11. 2010-11-17, DEC to BSK – SEQR Positive Declaration
 12. 2010-11-24, ENB Notice – SEQR Positive Declaration
 13. 2011-01-05, DEC to BSK – Draft Scope
 14. 2011-01-05, DEC to Supervisor - Draft Scope
 15. 2011-01-12, Draft Scope ENB Notice
 16. 2011-01-21, BSK to DEC – Draft Scope Notice Affidavit
 17. 2011-02-07, Draft Scoping Comments, Index Table
 18. 2011-02-08, Draft Scoping Comments, Approximately 91 Letters/E-mails
 19. 2011-02-10, DEC to BSK – Brine Pond Comments
 20. 2011-02-15, DEC to BSK – Final Scope
 21. 2011-02-17, DEC to Citizens - Final Scope

V. Department Staff Draft Permit Conditions (OHMS Doc. No. 00012)

1. 2014-11-10, DEC Staff Draft Permit Conditions
2. 2014-11-10, DEC Staff Draft Permit Conditions Cover Letter

ABBREVIATION KEY:

BSK	Bond, Schoeneck & King (typically addressed to Kevin Bernstein, Esq.)
DEC	New York State Department of Environmental Conservation
EJ	EarthJustice
FL	Finger Lakes LPG Storage, LLC
NYSGS	New York State Geological Survey
NOIA	Notice of Incomplete Application
NYSDOT	New York State Department of Transportation
SHPA	State Historic Preservation Act
SWPPP	Stormwater Pollution Prevention Plan
USACE	US Army Corps of Engineers

(All Dates Listed are in Year-Month-Day format)

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

MATTER OF FINGER LAKES LPG STORAGE, LLC
DEC Permit Application ID No. 8-4432-00085

ISSUES CONFERENCE EXHIBIT LIST
Updated November 3, 2017

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00001	Permit Hearing Referral (issued Aug. 6, 2014)	✓	✓		
00002	Letter, DEC to BSK, Hearing Determination Letter (Aug. 6, 2014)	✓	✓		
00003	Application Documents	✓	✓		Individual documents are separately numbered as per the Document List attached (revised November 3, 2017); hard copy with confidential documents redacted; 1 CD with confidential documents redacted (Doc. No. 00003A); 1 CD with

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
					unredacted confidential documents only (Doc. No. 00003B); 1 CD with unredacted Doc. List I.A.26 (Doc. No. 00003C); 1 CD with documents released pursuant to ALJ Confidentiality Ruling (Doc. No. 00003D).
00004	Freedom of Information Law (FOIL) Documents	✓	✓		See note above
00005	Comment Letters, Legislative Hearing Transcripts, and Post-Hearing Comments	✓	✓		See note above
00006	SEQR Documents, including accepted DSEIS, DSEIS Review and Hearings, Lead Agency, Positive Declaration, and Scoping documents	✓	✓		See note above
00007	Letter, Chief ALJ to DEC and BSK, ALJ Assignment (Sept. 29, 2014)	✓	✓		
00008	Notice of Deadline for Petitions for Party Status and Issues Conference (Oct. 22, 2014)	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00009	Notice Distribution List (Oct. 22, 2014)	✓	✓		
00010	Notice of Deadline for Petitions for Party Status and Issues Conference -- ENB Version (Oct. 29, 2014)	✓	✓		
00011	Letter, DEC to Chief ALJ, with attached proof of publication in Village of Watkins Glen Review & Express (Nov. 6, 2014)	✓	✓		
00012	Draft Underground Gas Storage Permit Conditions	✓	✓		
00013	Notice of Extension of Deadline for Filing Petitions for Party Status (Nov. 18, 2014)	✓	✓		
00014	Notice Distribution List (Nov. 18, 2014)	✓	✓		
00015	Notice of Extension of Deadline for Filing Petitions for Party Status -- ENB Version (Nov. 19, 2014)	✓	✓		
00016	Letter, DEC to Chief ALJ, with attached proof of publication in Village of Watkins Glen Review & Express (Dec. 8, 2014)	✓	✓		
00017	New York State L.P. Gas Association, Inc. (NYPGA), Petition for Amicus Party Status (Jan. 13, 2015)	✓	✓		
00018	National Propane Gas Association (NPGA), Petition for Amicus Party Status (Jan. 14, 2015)	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00019	Propane Gas Association of New England, Inc. (PGANE), Petition for Amicus Party Status (Jan. 14, 2015)	✓	✓		
00020	Gas Free Seneca, Petition for Full Party Status: Confidential Version (Jan. 16, 2015)	✓	✓		With corrected pages submitted Jan. 22, 2015 incorporated
00021	Seneca Lake Pure Waters Association (SLPWA), Petition for Full Party Status: Confidential Version (Jan. 16, 2015)	✓	✓		With corrected set of eight figures submitted Jan. 29, 2015 incorporated
00022	Seneca County, Yates County, Town of Fayette, Town of Geneva, Town of Ithaca, Town of Romulus, Town of Starkey, Town of Ulysses, Town of Waterloo, City of Geneva, Village of Watkins Glen, and Village of Waterloo (Seneca Lake Communities), Petition for Full Party Status (Jan. 16, 2015)	✓	✓		With original affidavits of Scott Gibson and James Bromka received Jan. 23, 2015, incorporated
00023	Finger Lakes Wine Business Coalition (FLXWBC), Petition for Amicus Status (Jan. 16, 2015)	✓	✓		With original signature pages for the affidavits of Kristina Hazlitt, Justin Boyette, Lou Damiani, and Scott Signori sent Jan. 23, 2015, incorporated
00024	Schuyler County Legislators Van A. Harp and Michael L. Lausell (Harp and Lausell), Petition for Amicus Party Status (Jan. 16, 2015)	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00025	United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (USW), Petition for Amicus Status (Jan. 16, 2015)	✓	✓		
00026	Gas Free Seneca, Petition for Full Party Status: Public Version (filed Jan. 22, 2015)	✓	✓		
00029	Letter, DEC to Chief ALJ, Response to Petitions for Party Status (Feb. 9, 2015)	✓	✓		
00030	Finger Lakes LPG Storage, LLC (Finger Lakes LPG), Response to Party Status Petitions, with attachments (Feb. 9, 2015)	✓	✓		<p>The following attachments are marked "Protected Materials - Confidential":</p> <p>2. Alpha Geoscience, Assessment of the Technical Suitability of Finger Lakes Galleries 1 and 2 for Storage of Liquid Petroleum Gas (LPG) (Gowan Report);</p> <p>4. Memorandum from John Istvan to</p>

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
					Chief ALJ (Feb. 9, 2015) RE: Responses to Issues for Adjudication and Offers of Proof
00031	Schuyler County Hazard Mitigation Plan (May 2008)	✓	✓	Finger Lakes LPG	
00032	Finger Lakes LPG Cavern Pressures, Chart	✓	✓	Finger Lakes LPG	
00033	Article, Michael R. Wing, Intrusion of saline groundwater (1995)	✓	✓	DEC Staff	
00037	Department of Environmental Conservation (Department) Staff Initial Post-Issues Conference Brief	✓	✓		
00038	Finger Lakes LPG Post-Issues Conference Brief	✓	✓		
00039	Gas Free Seneca Post-Issues Conference Brief: Confidential Version	✓	✓		
00040	Gas Free Seneca Post-Issues Conference Brief: Public Version	✓	✓		
00041	SLPWA Post-Issues Conference Brief: Confidential Version	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00042	Seneca Lake Communities Post-Issues Conference Brief	✓	✓		
00043	Harp and Lausell Brief and Petition for Full Party Status	✓	✓		
00044	NPGA Brief of Amicus Party	✓	✓		
00045	USW Post-Issues Conference Brief	✓	✓		
00046	Issues Conference Transcript, Feb. 12, 2015, AM Public Session	✓	✓		
00047	Issues Conference Transcript, Feb. 12, 2015, PM Confidential Session	✓	✓		
00048	Issues Conference Transcript, Feb. 13, 2015, Public Session	✓	✓		
00051	Department Staff Post-Issues Conference Reply Brief with Public Affidavits	✓	✓		
00052	Finger Lakes LPG Post-Issues Conference Reply Brief	✓	✓		With complete affidavit of Barry L. Moon submitted 6/1/15
00053	Gas Free Seneca Brief In Response: Confidential Version	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00054	Gas Free Seneca Brief in Response: Public Version	✓	✓		
00055	SLPWA Post-Issues Conference Reply Brief: Confidential Version	✓	✓		
00056	Seneca Lake Communities Post-Issues Conference Reply Brief	✓	✓		
00057	FLXWB Post-Issues Conference Letter to Chief ALJ (May 29, 2015)	✓	✓		
00058	Department Staff Post-Issues Conference Reply: Confidential Affidavits	✓	✓		
00059	Gas Free Seneca Sur-Reply Brief: Confidential Version	✓	✓		
00060	Gas Free Seneca Sur-Reply Brief: Public Version	✓	✓		
00061	SLPWA Post-Issues Conference Sur-Reply Brief: Confidential Version	✓	✓		
00062	Harp and Lausell Sur-Reply Brief	✓	✓		As corrected by Lausell letter dated Oct. 29, 2015
00063	SLPWA Late-Filed Supplement to the Petition for Full Party Status	✓	✓		
00064	Finger Lakes LPG Opposition to SLPWA Late-Filed Supplement to Petition for Full Party Status	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00065	DEC Staff Response Opposing SLPWA	✓	✓		
00066	SLPWA Reply to Opposition	✓	✓		
00067	Letter, Finger Lakes LPG to Chief ALJ (Aug. 8, 2016) RE: Matter of Finger Lakes LPG Storage, LLC, with appendices	✓	✓		
00068	Letter, Schuyler County Legislature to Chief ALJ (Aug. 9, 2016), with Schuyler County Legislature Resolution No. 251-16 attached	✓	✓	Schuyler County Legislature	
00069	Letter, DEC to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter, with revised draft permit updated August 2016 and updated process flow diagrams attached	✓	✓		
00070	Letter, GFS to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter	✓	✓		
00071	Letter, SLPWA to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter, with Exh. A attached	✓	✓		
00072	Letter, SL Communities to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter	✓	✓		
00073	Letter, Schuyler County Legislators to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter	✓	✓		
00074	Letter, FLXWBC to Chief ALJ (Aug. 22, 2016), Response to Applicant's Aug. 8, 2016 letter	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00075	Letter, GFS to Chief ALJ (Aug. 24, 2016), Response to DEC 's Aug. 22, 2016 letter	✓	✓		
00076	Letter, SL Communities to Chief ALJ (Aug. 24, 2016), Response to DEC 's Aug. 22, 2016 letter	✓	✓		
00077	Letter, Finger Lakes LPG to Chief ALJ (Sept. 12, 2016), Response to petitioners' Aug. 22, 2016 letters, with exhibits attached	✓	✓		
00078	Updated draft permit submitted Sept. 21, 2017 in clean version (00078A) and tracked changes version (00078B)	✓	✓		
00079	Letter, Finger Lakes LPG to Chief ALJ (Sept. 22, 2017), Clarification requested in ALJ issues ruling regarding alternative sites	✓	✓		
00080	Letter, SL Communities to Chief ALJ (Oct. 5, 2017), Response to Applicant's Sept. 22, 2017 letter	✓	✓		
00081	Letter, GFS to Chief ALJ (Oct. 6, 2017), Response to Applicant's Sept. 22, 2017 letter, with exhibits	✓	✓		
00082	Letter, SLPWA to Chief ALJ (Oct. 6, 2017), Response to Applicant's Sept. 22, 2017 letter, with exhibits	✓	✓		
00083	Letter, DEC to Chief ALJ (Oct. 27, 2017), Response to GFS, SLPWA and SL Communities' Comments	✓	✓		
00084	Letter, GFS to Chief ALJ (Oct. 31, 2017), Request to Supplement Record, with exhibits	✓	✓		

OHMS Document No. 201166576-	Description	ID	Rec'd	Offered By	Notes
00085	Letter, SLPWA to Chief ALJ (Oct. 31, 2017), RE: Ownership of Caverns Proposed for Storage	✓	✓		
00086	Letter, SPLWA to Chief ALJ (Nov. 1, 2017), RE: Ownership of Caverns Proposed for Storage	✓	✓		
00087	Letter, Finger Lakes LPG to Chief ALJ (Nov. 2, 2017), Response to GFS and SLPWA submissions	✓	✓		