

**New York State Department of Environmental Conservation**

**Division of Environmental Permits, 4<sup>th</sup> Floor**

625 Broadway, Albany, NY 12233-1750

Phone: (518) 402-9167 • Fax: (518) 402-9168

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



Joe Martens  
Commissioner

Secretary Jaclyn A. Brillling  
NYS Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

March 15, 2013

Re: Case 12-T-0574: Petition of Minard Run Oil Company to Amend its Certificate of Environmental Compatibility and Public Need to Relocate 2,800 Feet of Pipeline.

Dear Secretary Brillling:

The staff of the New York State Department of Environmental Conservation (DEC) submits the following comments (revised) regarding environmental focus points for which DEC, as a Party to the above-captioned proceeding, has an ongoing interest. Please note that DEC staff has appreciated the opportunity to join preliminary field discussions and participate in construction planning efforts.

**General Issues:**

Gas Line relocation as a component of 2008 DEC Permit # 8-4532-00023/00046 and 00047. In 2008, DEC issued a Freshwater Wetland permit ("permit") under Article 24, and Water Quality Certificate ("WQC") under Section 401 of the Clean Water Act to Seneca Meadows, Inc, for several activities related to the Seneca Meadows Landfill Expansion project. The permit allows an additional 1.03 acres of wetland for conversion or disturbance, due to the 'relocation of utilities'. Documents attached to and incorporated in the permit address, for those utilities, ROW clearing in and adjacent to designated State-protected freshwater wetlands, Indiana bat protections and methods for mitigating habitat loss, and authorizes timeframes for these activities. The permit provisions are taken into account by DEC Habitat and Species Protection staff in preparation of this letter of concerns.

Of particular concern for DEC staff is successful protection of the delineated wetlands which have been designated for enhancement and preservation under the permit. Also addressed here are protections for Indiana bats and Black Brook crossing.

**Natural Resources Impacts:**

**State Freshwater Wetlands**

The project area proposed by Minard Run Oil Company ("Minard") impacts NYS FWW SF-1 and SF-4, protected under ECL Article 24. Under the above referenced DEC permit, clearing has been allowed by Seneca Meadows for Minard's relocation, up to that delineated area currently

accurately depicted in Cornerstone figure C001, dated revised 3/4/2013 and circulated to DEC and DPS Staff. Because this delineated wetland area is a crucially linked and vital part of the larger mitigated wetland project, DEC requests that the Commission impose specific protective conditions on construction to prevent discharges to, or disturbance to the wetland, and to prevent introduction and transport of invasive species to the wetland: the wetland should be flagged as delineated, silt fencing should be installed and properly maintained to contain sediment and discharges from construction equipment and activities from entering the wetland. SMI has agreed to prepare an invasive species equipment cleaning plan for this purpose; as to which DEC hereby respectfully requests an opportunity to review and comment prior to the Commission's final consideration. Proper worker training on aspects of this plan should be included at the pre-construction or SWPPP training. To record Seneca Meadow's efforts regarding compliance, DEC also suggests this be added to the Inspection Report.

**Invasive Species:** Sediment disturbance related to new construction and long term maintenance activities can facilitate the spread of invasive species, causing biological pollution, with the potential to impact natural species habitats. Of additional concern is the very close proximity of FWW SF-4 to HDD locations and pipe installation activities.

Both DEC and DPS staff work with Article VII applicants to review proposed Invasive Species Plans. The following link contains the Department's interim list of invasive species: [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/isplantlist.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/isplantlist.pdf). Plans should provide for species identification, field worker education efforts, and methods for equipment cleaning which prevent the further transport of invasive species, while construction occurs. The applied method shall include equipment cleaning and visual inspection and recorded, preferably by the on-site Environmental Inspector, prior to any equipment entering construction areas on both sides of HDD lay down areas. Construction plans should include a note regarding invasive cleaning procedures. Figure C001, mentioned above, should indicate where cleaning and inspection should take place.

In addition, silt fencing shall be installed, inspected and maintained to provide the best possible barrier to prevent equipment access near wetlands, and thus ground disturbance or seed transport. Plans currently indicate the silt fencing should be installed as needed; however, DEC program stresses the need for the silt curtain along the entire pipe-stringing area, as indicated in SWPPP Figure C001 (rev 3/4/13). Silt fencing should be aligned as it is depicted in figure C001. Seneca Meadows, in its March 6, 2013 electronic correspondence (attached), voiced an intention to prepare an invasive species plan. This should include a pre-construction vegetation inventory, best practices for equipment cleaning and prevention of transport during activities, and post-construction monitoring and treatment action thresholds. In addition, two invasive plants in Minard's project area are two swallowwort species: Black swallow-wort *Cynanchum louiseae*, and Pale Swallow-wort *Cynanchum rossicum*, both given a Very High ranking in the State Interim list. These should be mentioned in Minard's plan with emphasis on no tolerance, and subsequent actions to eradicate it from the project ROW and immediate vicinity.

DEC will continue to work with DPS and Minard regarding specific and applicable provisions of the DEC Permit referenced above, to protect this wetland area which is a vital component of the overall Permitted mitigation plan for Seneca Meadows.

**Indiana Bats: Endangered Species:** The Indiana Bat (*myotis sodalis*) is both a federally and state protected species. Because the bat was found to hibernate and use a habitat area in some proximity to the project, requirements for their protection are contained in DEC Permit # 8-4532-00023. Condition # 23 of that permit, among other things, addresses a calendar for tree removal, and the need to inventory and provide a replacement ratio of 1:1 of suitable roosting tree replacements, prior to tree removal. To date, Seneca Meadows has provided information indicating compliance with these provisions; most particularly that any work on Potential Roost Tree (PRT) removal be completed by March 14. If there is a need to clear a limited number of hardwood trees on the east side of Rte 414 for work or a staging area, DEC would not object to limited additional clearing within the normally restricted time frame (March 15 - October 31) provided that none of the individual trees are previously identified PRTs and that clearing is limited to shrubs, saplings, and trees less than 4 inches dbh (diameter @ breast height). Previously identified PRTs would need to be mitigated, as noted above.

#### **Protected and Perennial streams**

As proposed, the project would cross Black Brook Creek (ONT-66-12-52-1,), identified and classified as a Class C stream.

**Black Brook crossing:** Minard proposes to completely re-route and divert this stream to the north of the Seneca Meadows Landfill. The new diversion channel is completed and the Applicant and Seneca Meadows indicate they may conduct the flow change to the diversion prior to construction. If so, the other stream crossing methods proposed by Minard would not be necessary. Otherwise, Minard proposes either an HDD crossing (which DEC in most cases finds preferable) or conventional open cut or dam and pump around crossing method. DEC has no additional comments on the Erosion and Sediment Details SWPPP Figure C002 (dated 2/2013) for these crossing methods. General requirements for stream crossings include:

- Water diversions around work areas should be adequate to protect water quality and quantity downstream.
- To protect water quality downstream of the project, all water must be passed around the construction site by a gravity pipe or by active pumping. If pumped, the pump discharge must be directed against a solid object (concrete slab, stone or steel container) to prevent erosion of the bed and/or banks of the water body.
- Any fish remaining in the dewatered area shall be returned to the stream, lake or wetland
- During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site.
- Stream reaches downstream of construction areas shall always remain as clear (non-turbid) as the reaches upstream of the construction areas.

- Silt fence or other erosion control practices must be installed and maintained.
- Stream bed shall be restored to original elevations and tie in smoothly with the upstream and downstream stream bed.
- Changes to Erosion and Sediment Control practices will be proposed to the DEC prior to implementation whenever possible, except when needed immediately to avoid violations of NYS Water Quality Standards.
- Fueling of equipment should be at least 100 feet from wetland
- Locations of entry and exit points of bore shall be outside of stream bank
- Fueling of equipment must be at least 100 feet from stream
- Proper disposal of waste fluids and materials

**NYSDEC SPDES Permit:** DEC's Division of Water staff has reviewed the February 20, 2013 Minard Run Oil Company Storm Water Pollution Prevention Plan (SWPPP). The SWPPP is a modification to an existing DEC permit first authorized in August 2005 under GP 02-01 (authorization number NYR 10J475.) The erosion and sediment controls planned and depicted in the proposal appear to be in compliance with permit conditions for the additional 1.8 acre linear project. However, the Plan still needs the following:

- 1) Applicant to submit a revised Notice of Intent (NOI) to the DEC Division of Water, Albany office, indicating the increased disturbed area.
- 2) Applicant to provide documentation from the Office of Parks, Recreation and Historical Preservation (OPRHP) indicating their review, conclusions, and whether the pipeline project will impact any archaeologically sensitive areas for this newly proposed area of disturbance.

DEC Staff recommend that other conditions be included in the Commission's WQC, such as those concerned with preventing turbidity and maintaining stream flow. Examples of these also may be found in previous Article VII cases.

Thank you for the opportunity to comment on environmental issues. DEC Staff looks forward to continuing to work with DPS staff and Minard during this Article VII proceeding. For questions, please contact me at (518) 402-9174.

Sincerely,



Betsy Hohenstein  
 Environmental Analyst  
 Major Projects Bureau  
 NYSDEC Division of Environmental Permits

Encl. (Seneca Meadows e-mail)

cc: D. Rollins, DEC  
 S. Jones, DEC  
 C. Herzog, DEC

W. Little, DEC

J. Strub, DPS

C. Robertson, DPS

H. Behnke, DPS

S. Turner, Attorney for Minard Run Oil Company

T. Hasek, Seneca Meadows, Inc.



**From:** "Tom Hasek" <thasek@iesi.com>  
**To:** "Betsy Hohenstein" <brhohens@gw.dec.state.ny.us>, "Scott Jones" <wsjones...>  
**CC:** "Dixon Rollins" <dfrollin@gw.dec.state.ny.us>, "Rich Weis" <rweis@iesi.com>  
**Date:** 3/6/2013 2:21 PM  
**Subject:** RE: Seneca Meadows DEC # 8-4532-00023 and PSC Case # 12- T-0574 Minard Run Oil relocation  
**Attachments:** Bat Roost Tree Plan\_11x17\_03-05-13.pdf; C001 MINARD SWPPP PLAN.pdf

Betsy, Scott:

Please find enclosed our responses to your e-mail comments of 28 February 2013. I have prepared a response that follows each of your questions below. My responses are in CAPS.

1. We had discussed the need for DEC to see the amounts of acreage wetlands per each utility relocation, which was allowed in the Article 24 Permit.

Rich offered to provide the Table to us, but we have since found the info as Table 6-2 from the Seneca Meadows, Inc. Landfill Expansion DSEIS, which appears in Exhibit 2 of Minard's 12/19/12 Article VII application to the PSC. The Table describes the temporary wetlands for Columbia Gas relocation impacts to be 0.28 acres.

However, in Exhibit 4 in the same petition application, gas easement G-1 is described as being 0.316 acres.

Is the difference between 0.28 and 0.316 acres because a portion of the G-1 easement is the 414 roadbed? Or is that remainder part of the crossing area in which other utilities cross the Minard Oil line (to prevent double counting?)

**\*THE DIFFERENCE IS DUE TO THE FACT THAT NOT ALL OF THE LINEAR DISTANCE OF THE G-1 EASEMENT CROSSES WETLANDS.**

2. Also, Table 6-2 says that the 0.28 acres will be "temporarily impacts" as opposed to other parts of the table devoted to "permanent impacts" or "conversion of wetlands".

Since Table 6-2 is from the Draft SEIS for the landfill expansion, are the impacts for the right-of-way for G-1 are no longer temporary - perhaps due to the need to maintain a 'line of sight' condition, to comply with DPS requirements for monitoring/inspection?

**\*THESE IMPACTS WERE CHARACTERIZED AS TEMPORARY BECAUSE THE WETLANDS THAT WERE TO BE DISTURBED IN CONNECTION WITH THE COLUMBIA PIPELINE RELOCATION WERE CHARACTERIZED AS SHRUB SWAMP AND SHALLOW EMERGENT MARSH AND WOULD BE RETURNED TO THOSE EXISTING CONDITIONS FOLLOWING COMPLETION OF PIPELINE RELOCATION. IF DPS REQUIREMENTS PREVENT THE RETURN TO THESE PREVIOUSLY EXISTING CONDITIONS, THEN THE IMPACT TO THESE 0.28 ACRES OF WETLAND WOULD BE CLASSIFIED AS A CONVERSION, SIMILAR TO THE CONVERSION THAT IS ANTICIPATED TO OCCUR WITH THE OTHER UTILITY CONVERSIONS WHERE RED MAPLE HARDWOOD WILL BE CONVERTED TO WET PRAIRIE SEDGE MEADOW. THESE ARE NOT CONSIDERED PERMANENT IMPACT BECAUSE THESE AREAS WILL REMAIN AS WETLANDS.**

3. Can you provide me with the final permanent wetland impacts area for this relocation, in length and width and acreage?

\*AS NOTED IN RESPONSE # 2, THERE IS NO PERMANENT IMPACT BECAUSE THE EXISTING WETLANDS WILL REMAIN.

4. During the first site visit, Tom explained that vegetation clearing for G-1 on the east side of Route 414 was needed prior to a March deadline, for Indiana bats as protected species. Please refresh my memory as to whether any potential bat trees needed to be cleared and, if so, what the mitigative requirements were for that?

\* TWO POTENTIAL INDIANA BAT ROOST TREES WERE IDENTIFIED IN THE AREA REQUIRED TO BE CLEARED FOR THE PIPELINE RELOCATION. PER THE BIOLOGICAL ASSESSMENT AND THE USACE PERMIT, SENECA MEADOWS HAS CREATED TWO SNAGS, IN THE MANNER DESCRIBED IN SECTION 3.3.3 OF THE BIOLOGICAL ASSESSMENT, TO COMPENSATE FOR THOSE POTENTIAL ROOST TREES (SEE ATTACHED FIGURE).

5. The wetlands most particularly east of Route 414 will be very susceptible to invasive species infestations, given the proximity of a lot of planned ground disturbance and construction traffic alongside the wetland and adjacent area. I'll be asking DPS to include provisions which would require some type of equipment brushing or cleaning, and other best practices to prevent the transport of invasive species most particularly into the protected wetlands. The practices should be in place prior to any more additional clearing or construction activities by any subcontractor near these wetlands.

I'll be glad to forward you, if you wish, a copy of some current, basic cleaning practices currently accepted by both DEC and the Utilities industries for their ROW activities.

\* PLEASE PROVIDE US WITH THIS INFORMATION AND WE WILL INSURE IT IS BUILT IN OUR CONTRACTORS'S SCOPE OF WORK ACCORDINGLY. WE WILL ALSO BE USING APPLIED ECOLOGICAL SERVICES (AES) FOR ONGOING INVASIVE CONTROL FOR THE SITE AND OUR RELATED PROJECTS.

Finally, I have reached out to our Region 8 DOW Regional Water Engineer, Dixon Rollins, to obtain the Region 8 copy, and review the SWPPP as per Condition 13 of the permit.

\*THE SWPPP DOCUMENTS HAVE BEEN SENT OUT AS REQUESTED.

If you need any additional information please let know as soon as possible.

Thomas P. Hasek, Jr.  
Environmental, Engineering & Compliance Manager

Seneca Meadows, Inc.  
A Progressive Waste Solutions Company

T: 315 539 5624  
F: 315 539 0653  
C: 585 370 5941  
thasek@iesi.com

1786 Salcman Road  
Waterloo, New York 13165  
www.senecameadows.com

-----Original Message-----

From: Betsy Hohenstein [mailto:brhohens@gw.dec.state.ny.us]  
Sent: Thursday, February 28, 2013 9:38 AM  
To: Rich Weis; Tom Hasek  
Cc: Dixon Rollins; Scott Jones  
Subject: Seneca Meadows DEC # 8-4532-00023 and PSC Case # 12- T-0574 Minard Run Oil relocation

Hi Rich and Tom:

Thanks Rich, for accommodating Scott Jones and I last Friday - and sorry to have missed you, Tom. The weather was again good for us, for february!

After walking the area, Scott and I requested some additional information of Rich and Matt which could help clarify some remaining questions.

1. We had discussed the need for DEC to see the amounts of acreage wetlands per each utility relocation, which was allowed in the Article 24 Permit.

Rich offered to provide the Table to us, but we have since found the info as Table 6-2 from the Seneca Meadows, Inc. Landfill Expansion DSEIS, which appears in Exhibit 2 of Minard's 12/19/12 Article VII application to the PSC. The Table describes the temporary wetlands for Columbia Gas relocation impacts to be 0.28 acres.

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equipment brushing or cleaning, and other best practices to prevent the transport of invasive species most particularly into the protected wetlands. The practices should be in place prior to any more additional clearing or construction activities by any subcontractor near these wetlands.

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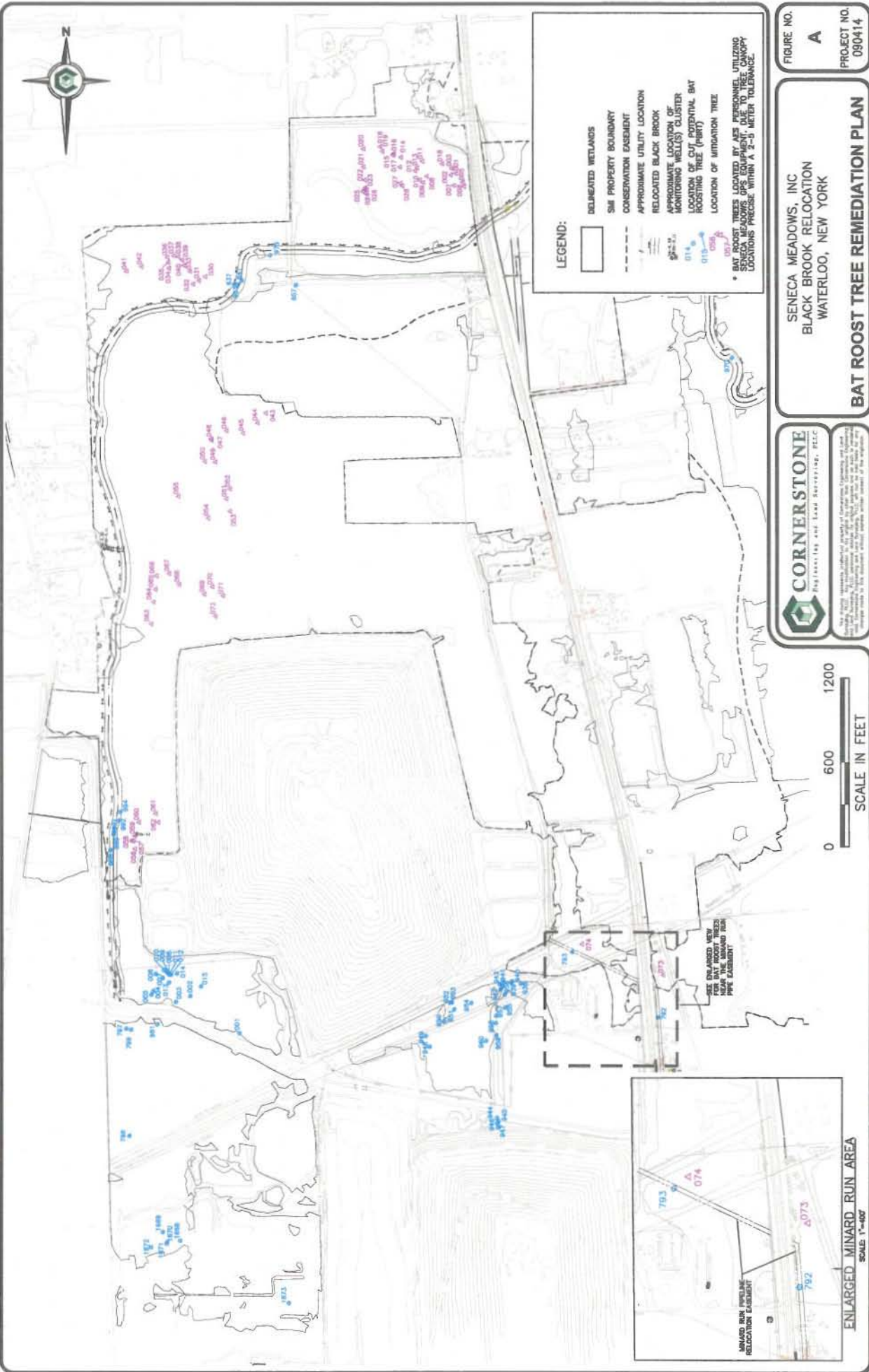
Finally, I have reached out to our Region 8 DOW Regional Water Engineer, Dixon Rollins, to obtain the Region 8 copy, and review the SWPPP as per Condition 13 of the permit.

Thanks again; we appreciate your cooperative responses.

Betsy Hohenstein  
Environmental Analyst, Major Projects Bureau Division of Environmental Permits NYSDEC  
625 Broadway  
Albany, NY 12233  
phone (518) 402-9174

1" = 100'

PROJECT: SENeca MEADOWS BLACK BROOK RELOCATION (S&P) - 11/07/2017 (REVISED) - 11/07/2017 (REVISED) - 11/07/2017 (REVISED)



**LEGEND:**

- DELINEATED WETLANDS
- S&P PROPERTY BOUNDARY
- CONSERVATION EASEMENT
- APPROXIMATE UTILITY LOCATION
- RELOCATED BLACK BROOK
- APPROXIMATE LOCATION OF MONITORING WELLS(S) CLUSTER
- LOCATION OF CIVIL POTENTIAL BAT ROOSTING TREE (PART)
- LOCATION OF MITIGATION TREE

\* BAT ROOST TREES LOCATED BY A&S PERSONNEL UTILIZING AERIAL PHOTOGRAPHY AND VISUAL INSPECTION. LOCATIONS PRECISE WITHIN A 2'-3" WATER TOLERANCE.

FIGURE NO. **A**  
PROJECT NO. 090414

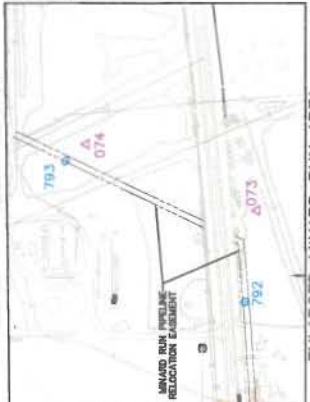
SENECA MEADOWS, INC  
BLACK BROOK RELOCATION  
WATERLOO, NEW YORK

**BAT ROOST TREE REMEDIATION PLAN**

**CORNERSTONE**  
Engineering and Land Surveying, P.E.C.

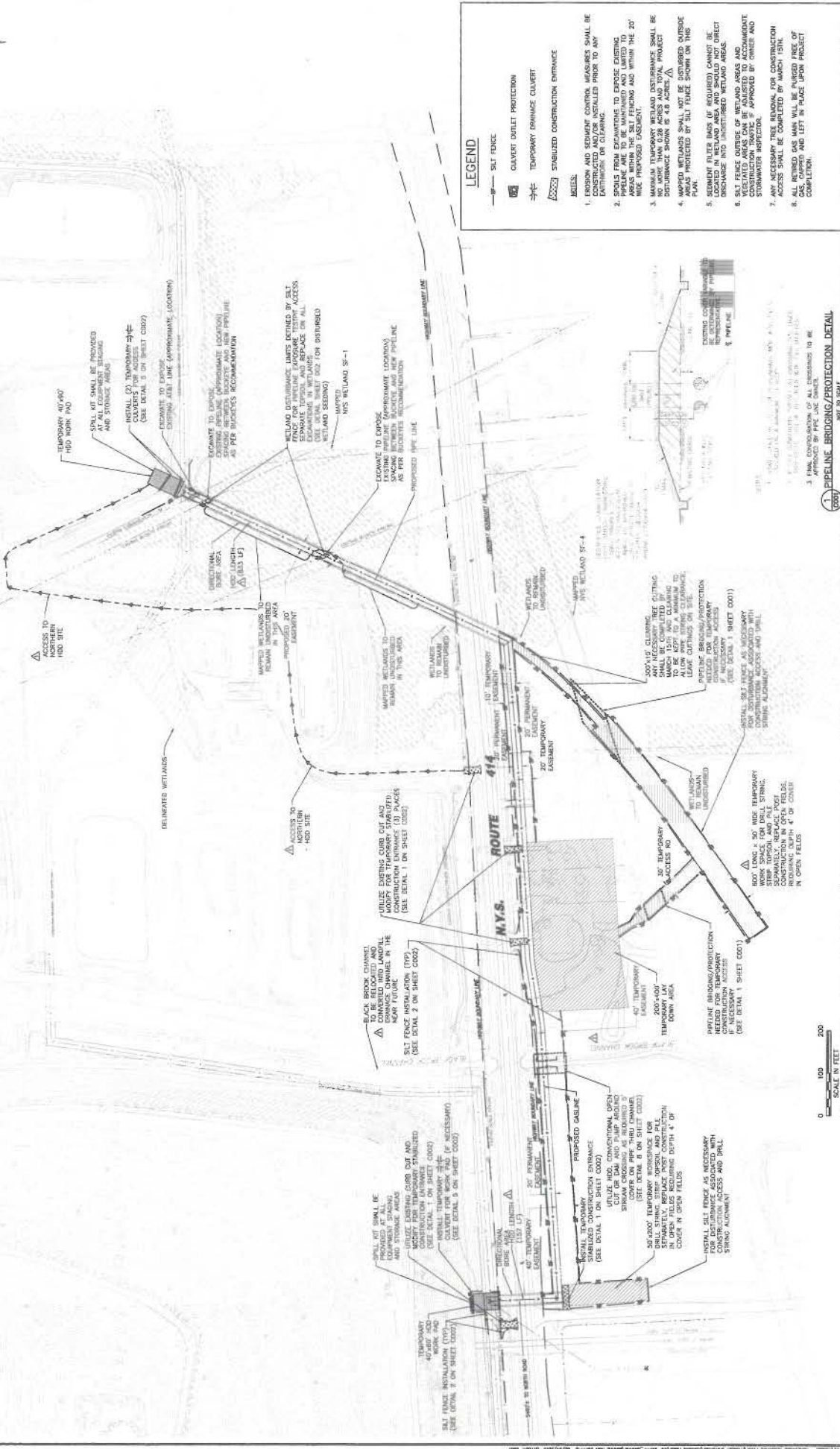
The Project, Wetlands, Utility and Property of Seneca Meadows, Inc. (Client) is located at Seneca Meadows, Inc., 1000 Seneca Meadows, Waterloo, New York. The project was completed on 11/07/2017. The project was prepared by the firm of Cornerstone Engineering and Land Surveying, P.E.C. The project was prepared by the firm of Cornerstone Engineering and Land Surveying, P.E.C. The project was prepared by the firm of Cornerstone Engineering and Land Surveying, P.E.C.

0 600 1200  
SCALE IN FEET



SEE ENLARGED VIEW FOR BAT ROOST TREES NEAR THE MINARD RUN PIPE EASEMENT





- LEGEND**
- SALT FENCE
  - CLAMNET OUTLET PROTECTION
  - ≡≡≡ TEMPORARY DRAINAGE CLAMNET
  - ▭ STABILIZED CONSTRUCTION ENTRANCE
- NOTES:**
1. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED AND/OR INSTALLED PRIOR TO ANY EARTHWORK OR CLEARING.
  2. SPOILS FROM EXCAVATIONS TO EXPOSE EXISTING UTILITY SHALL BE STORED WITHIN THE SALT FENCING AND WITHIN THE 20' WIDE PROPOSED EASEMENT.
  3. MAXIMUM TEMPORARY WETLAND DISTURBANCE SHALL BE LIMITED TO 10% OF THE TOTAL WETLAND AREA OF THE PROJECT DISTURBANCE SHOWN ON SHEET 414-002.
  4. MAPPED WETLANDS SHALL NOT BE DISTURBED OUTSIDE AREAS PROTECTED BY SALT FENCE SHOWN ON THIS PLAN.
  5. EXISTING TREE BANKS (AND OTHER BANKS) SHALL BE MAINTAINED IN WETLAND AREAS AND SHOULD NOT BE DIRECTLY DISCHARGED INTO UNDISTURBED WETLAND AREAS.
  6. SALT FENCE OUTSIDE OF WETLAND AREAS AND PROPOSED CONSTRUCTION ACCESS SHALL BE APPROVED BY CHIEF AND STORMWATER INSPECTOR.
  7. ANY NECESSARY TREE REMOVAL FOR CONSTRUCTION ACCESS SHALL BE COMPLETED BY MARCH 15TH.
  8. ALL WETLAND GAS MARK WILL BE PURGED FREE OF SOLIDS AND LEFT IN PLACE UPON PROJECT COMPLETION.

SHEET NO. **C001**  
PROJECT NO. 10226

IESI - SENECA MEADOWS  
RENEWABLE RESOURCE PARK SWPPP-ADDENDUM #1  
SENECA FALLS, NEW YORK

MINARD RUN PIPELINE RELOCATION  
EROSION AND SEDIMENT CONTROL PLAN

**CORNERSTONE**  
CONSULTANTS INC.

DATE: 02/27/2012  
PROJECT NO: 10226  
SHEET NO: C001

NO.	DATE	BY	DESCRIPTION
1	02/27/2012	DESIGNER	ISSUED FOR PERMITS
2	02/27/2012	DESIGNER	ISSUED FOR PERMITS
3	02/27/2012	DESIGNER	ISSUED FOR PERMITS

IT IS A VIOLATION OF ARTICLE 145 OF THE NEW YORK STATE EDUCATION LAW, UNLESS ACTING UNDER THE AUTHORITY OF A LICENSED PROFESSIONAL ENGINEER WHO AFFIXES SIGNATURE, DATE AND SEAL, FOR ANY PERSON TO ALTER THESE DRAWINGS IN ANY MANNER.

SCALE IN FEET  
0 100 200

PIPELINE BRIDGING/PROTECTION DETAIL  
NOT TO SCALE

FINAL CONVICTION OF ALL VIOLATIONS TO BE APPROVED BY P.E. JAC CHANCE.

