

**STATE ENVIRONMENTAL QUALITY REVIEW ACT
DETERMINATION OF SIGNIFICANCE**

This notice is issued by the Town of Tonawanda Town Board (the "Town Board") in a Coordinated Environmental Review pursuant to and in accordance with Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and Regulations (collectively, "SEQRA").

The Town Board determined that the proposed acquisition of a portion of 3500 River Road, Tonawanda, New York (the "Site") as depicted in **Exhibit "A"**, will not have any significant adverse impacts on the quality of the environment; that a Negative Declaration pursuant to SEQRA should be issued; that no further environmental review will be conducted prior to implementation of the action and a Draft Environmental Impact Statement will not be required.

Reasons supporting this determination are fully explained below.

Project Name: Huntley Eminent Domain

SEQRA Status: Unlisted Action Pursuant to 6 NYCRR §617 in that it does not exceed any of the thresholds found in 6 NYCRR §617.4 or the exemptions found in 6 NYCRR §617.5.

Affected Parcel: 3500 River Road
Tonawanda, New York 14150
Parcel ID No.: 64.16-1-1.2

Landowners: Huntley Power LLC

Project Description:

The Town of Tonawanda has considered the acquisition of the Site for the purposes of preventing blight, economic development, public use, and to secure a critical source of industrial water supply for the Town. Since the decommissioning of the Huntley Power Plant in 2016, the parcel remains vacant and inactive and a critical source of industrial water is at risk.

The 2014 Comprehensive Plan found that the past industrial usages have left large sections of the Town's waterfront degraded and subject to environmental remediation. Further, the historic failure to redevelop these facilities in a timely manner has left underutilized or vacant Brownfield sites, creating a blight on the Town and stalling the redevelopment and productive use of these properties. The Comprehensive Plan also encouraged a transformation of the waterfront area from heavy industrial and vacant lands to mixed uses with a specific emphasis on public access.

The Site is also part of the Town of Tonawanda Local Waterfront Revitalization Program Area (“LWRP”), which specifically called on the Town to intervene in the transition of the waterfront area from industrial to recreational and lower intensity uses. The LWRP also identifies the need to have increased public access and open space in the region to help change the character of the area and realize its potential due to its adjacency to the Niagara River. The LWRP specifically identifies the Site as a critical area of transition and recommends the redevelopment of the Site into mixed uses including commercial, park land, retail, and light industrial. As with the Comprehensive Plan, the LWRP identified the failure to redevelop large parcels such as the Site as a major impediment to redevelopment.

The existing raw water system at the Site provides a critical supply of water to users such as Proxychem, 3M, Sumatomo Rubber, and Dupont. Without this critical water supply, numerous jobs could be put at risk.

Reasons Supporting This Determination:

Background

1. The Town Board has authority over this Project, with discretion over the decision to go forward with the exercise of Eminent Domain. In this role, the Town Board has authority to impose appropriate conditions and limitations necessary to mitigate any potentially adverse environmental impacts. Further, the Town Board has specifically called out the need for future environmental review of any redevelopment proposals for the Site going forward. As such, the Town Board is the appropriate entity to review the exercise of Eminent Domain and serve as Lead Agency under SEQRA.
2. The Town Board commenced the Eminent Domain process upon the first notice issued on November 13, 2018 and conducted a public hearing on December 3, 2018. At the outside, the Town Board considered acquiring all the property owned by Huntley Power LLC, including 3500 and 4293 River Road, Tonawanda, New York. After the initial public comment period, the Town Board decided to reduce the area of its intended acquisition to an approximately 65-acre portion of 3500 River Road, exclusive of the existing 30-acre Brownfield Site, but inclusive of the entire waterfront along the Niagara River. The area of acquisition is more accurately depicted in the map attached hereto as **Exhibit “A”**.
3. The Town Board also prepared Parts 1 through 3 of the Full Environmental Assessment Form (“FEAF”) analyzing the impact of the potential Project. Potential environmental impacts associated with the action were identified in the Environmental Assessment Form to assess potential adverse environmental impacts.
4. Because the Project was reduced in size to below 100 acres, it is no longer considered a Type 1 Action, but instead an Unlisted Action under SEQRA. Nevertheless, the Town Board conducted a coordinated environmental review for the proposed exercise of Eminent Domain.

5. The Town Board circulated a Notice of Intent to act as SEQRA Lead Agency to all Interested and Involved Agencies. Because no Involved Agency objected to the Town Board's Notice of Intent, the Town Board was established as Lead Agency.
6. On December 3, 2018, the Town Board held its first public hearing on the proposed exercise of Eminent Domain, at which all Interested Parties, including representatives from Huntley Power LLC, were able to express their comments on the proposed exercise of Eminent Domain.
7. On April 8, 2019, the Town Board held a second public hearing on the reduced scope of the intended exercise of Eminent Domain and all who wished to comment were allowed to be heard.
8. The Town Board has carefully considered the full scope of the proposed acquisition and reviewed and considered all materials relating to it, including the Town of Tonawanda Comprehensive Plan, Town of Tonawanda Local Waterfront Revitalization Program and the Town of Tonawanda Brownfield Opportunity Area, as well as written submissions of Huntley Power LLC and the public and testimony taken at the two public hearings.
9. The Project requires the Town Board to exercise its authority under the Eminent Domain Procedure Law prior to the formal acquisition of the Site.

Environmental Setting

10. The Site is located in a mixed industrial and recreational area. The approximately 65-acre portion of 3500 River Road is currently a decommissioned coal burning power plant with an operating raw water pumping station servicing several local industrial users. The Site also includes approximately 3000 linear feet of waterfront along the Niagara River, including a substantial area of existing marine bulkhead.
11. The purpose of the acquisition is to preserve public access to the waterfront, maintain the critical supply of raw water to industrial users in the Town, and foster the redevelopment of the Site as envisioned by the Comprehensive Plan, LWRP, and the Brownfield Opportunity Area.

Analysis of Impacts to Environmental Resources

Impacts on Surface Water

The acquisition of the Site includes the existing raw water pump station. At this time, there are no intended changes to that system or its operation. Should the Town move forward with the upgrading and modernization of the raw water supply system now in existence, a future environmental review will be conducted as part of that process.

For these reasons, the acquisition will not have any significant adverse impacts on surface water resources.

Impacts on Flooding

The Site is located within a 100-year flood plain, but at this time no specific development plans have been prepared so there are no anticipated changes to the flood plain or creation of flood risks.

For these reasons, the acquisition will not have any significant adverse impacts on flooding.

Impacts on Air

When the Huntley Power Plant was operating, it was a State regulated air emissions source. However, since its decommissioning, an air permit is no longer necessary for the facility. The Town does not envision the reestablishment of the power plant at this time, so there are no anticipated impacts on air quality.

For these reasons, the acquisition will not have any significant adverse impacts on air quality.

Impacts on Aesthetic Resources

The Site was formerly used as a coal-burning power plant and is therefore a highly industrialized facility. Development in this area of the Town has begun to evolve from industrial uses to public recreation and the Town envisions additional public access to the Site as well as fostering mixed uses in this formerly industrial area of the Town. Any future changes will improve access to aesthetic resources along the Niagara River and therefore the acquisition does not anticipate to have any significant environmental impacts on aesthetic resources.

For these reasons, the acquisition will not have any significant adverse impacts on aesthetic resources.

Impacts on Open Space and Recreation

One of the specific purposes of this acquisition is to secure public access to the Niagara River for recreational purposes. The Site has been closed to the public since the plant was first established and acts as a barrier to the contiguous public access to the Niagara River in the Town.

For these reasons, the acquisition will not have any adverse impacts on open space and recreation.

Impacts on Energy

Huntley Power Plant has been decommissioned since 2016 and is no longer a source of energy in the region. There has been a decrease in demand for energy in the region, particularly from coal-burning power plants. For that reason, the continued disuse of this facility as an energy generating plant is not anticipated to have significant adverse impacts on supply in the region.

For these reasons, the acquisition will not have any significant adverse impacts on energy supply or use in the region.

Consistency with Community Plans and Character

As identified by the Town Board, the reuse and redevelopment of the Site for public purposes including recreation and raw water supply as well as a conversion of a decommissioned industrial facility and conversion to productive mixed uses are central to the Town's Comprehensive Plan, LWRP, and the applicable Brownfield Opportunity Area. The Town has repeatedly made clear in these community plans that it is necessary to transition these former industrial sites to mixed and public uses consistent with maximizing the access and value of property along the Niagara River.

For these reasons, the acquisition is consistent with applicable community plans and character.

Considerations

The Town Board, as Lead Agency, has also considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:

- i. included in any long-range plan of which the action under consideration is a part;
- ii. likely to be undertaken as a result thereof; or
- iii. dependent thereon.

The Town Board also considered and made its determinations of the potential significance of a likely consequence in connection with the following characteristics:

- i. the site setting;
- ii. the probability of an occurrence;
- iii. the duration of impacts;

- iv. the irreversibility of the actions;
- v. the geographic scope;
- vi. the magnitude; and
- vii. the number of people affected.

The Town Board has concluded the following:

- i. that the acquisition will not create a material demand for other actions that would result in one of the above consequences;
- ii. that the acquisition will not involve changes in two or more elements of the environment, either of which has a significant adverse impact on the environment, but when considered together, result in a substantial adverse impact on the environment;
- iii. that this analysis has determined that the acquisition will not result in any significant adverse environmental impacts, necessitating the preparation of an Environmental Impact Statement.

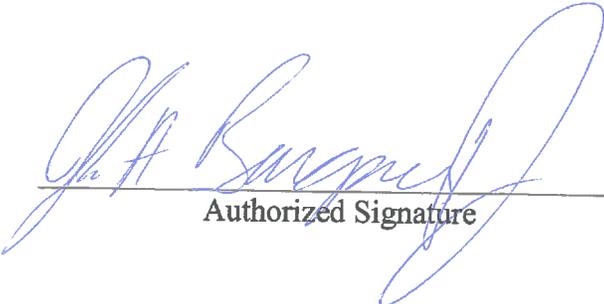
Conclusion

A thorough analysis of all potential negative environmental impacts associated with the acquisition reveals that the potential for such impacts are either minimal or have been mitigated to the greatest extent practicable. As a result, there will be no significant adverse environmental impacts associated with the acquisition. Accordingly, it is appropriate for the Town Board to issue a Negative Declaration for the Project.

Copies of this Negative Declaration will be filed with the New York State Department of Environmental Conservation and distributed to all Interested and Involved Agencies.

Date:

June 26, 2019



Authorized Signature

For Further Information Contact:

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Kenmore, New York 14217
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Town of Tonawanda
Huntley Eminent Domain Involved and Interested Agencies

Involved Agencies

Town of Tonawanda Planning Board
2919 Delaware Avenue, Room 21
Kenmore, New York 14217

New York State Department of Environmental Conservation
Region 9
270 Michigan Avenue
Buffalo, New York 14203

New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, New York 12223

Empire State Development Corporation
95 Perry Street, Suite 500
Buffalo, New York 14203

Interested Agencies

New York State Department of State
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231

Dormitory Authority of the State of New York
515 Broadway
Albany, New York 12207

Erie County Department of Environment and Planning
95 Franklin Street #1000
Buffalo, New York 14202



3800 River Road
Huntley Power, LLC
Proposed Eminent Domain Taking