



November 08, 2021

Ms. Karen M. Gaidasz, Chief
Offshore Wind & Hydroelectric Section
Energy Project Management Bureau
New York Department of Environmental Conservation (NYSDEC)
625 Broadway, 4th Floor
Albany, NY 12233-1750

Submitted via email: karen.gaidasz@dec.ny.gov

**Re: NYSDEC Comments on Final Scoping Document
Albany Port District Commission – Port of Albany Expansion Project
Marmen-Welcon Tower Manufacturing Plant
Beacon Island Site, Town of Bethlehem Albany County**

Dear Ms. Gaidasz:

Reference is made to your letter dated August 13, 2021, where the NYSDEC submitted their comments in response to the Final Scoping Document for the preparation of the Supplemental Draft Environmental Impact Statement (SDEIS) for the above reference project. Please note that NYSDEC comments have been addressed in the most recent Final Scoping Document and SDEIS submitted to the Town of Bethlehem on October 27, 2021.

The following information is respectfully submitted in response to each comment.

3.2 Vegetation and Wildlife

Comments # 1. *The SDEIS should include a more robust analysis of the potential impacts to Atlantic and Shortnose sturgeon resulting from dredging, the wharf construction and the proposed bridge across the Normanskill. This analysis should include, but should not be limited to, an evaluation of underwater sound levels, impacts resulting from habitat alteration and removal. The SDEIS should also evaluate specific avoidance, minimization and mitigation measures that would address potential impacts to sturgeon species caused by the Proposed Action.*

The SDEIS should specifically address the potential impacts to State designated Significant Coastal Fish and Wildlife Habitats.

Response # 1: Foreseeable impacts to Atlantic and Shortnose sturgeon were evaluated as part of the Final Generic Environmental Impact Statement (FGEIS) accepted by the Town of Bethlehem in May 2020. For the supplemental Project Area, additional potential impacts are not expected. However, SDEIS Section 3.2.2 submitted to the Town of Bethlehem on October 27, 2021 includes the following robust information.

Avoidance and minimization efforts implemented as part of the overall project design include:

- Wharf was relocated and size reduced to avoid dredging in submerged aquatic vegetation (SAV) bed with moderate to high density of water celery (*Vallisneria americana*).
 - *Water celery* (sparse, low density) detected within the proposed dredging area would be transplanted and added to the other SAV beds outside the project limits and to remain.
- General layout of the proposed wharf places the riverside face of structure coincident with the face of the existing timber revetment.
- Proposed bridge over Normans Kill was redesigned and to be constructed outside MHHW (no “in water work” construction).
- Reconfiguration of proposed surface parking to avoid wetland impacts and construction of a fill type retaining wall to minimize the need of fill in wetland area.
- Proposed site grading or fill above and avoiding current MHHW line.

In addition, the following is proposed as BMPs and mitigation measures to further avoid and minimize potential impacts for species under NMFS jurisdiction (i.e., Atlantic sturgeon and Shortnose sturgeon).

- All in-water work areas for both dredging and wharf construction will be completed within the confines of a weighted turbidity curtain, which will isolate work areas from other areas of the river. The turbidity curtain is also anticipated to serve as a barrier that excludes potential entry of fish and other marine species into the work area during the time it is deployed.
 - Turbidity curtains are proposed to avoid and minimize potential impacts to Atlantic sturgeon and Shortnose sturgeon. Additionally, floating turbidity curtains, staked turbidity barriers and/or silt-fence would be installed to protect SAV beds to remain.
 - Large portion of the channel will remain open for aquatic organism passage.
- The Project intends to avoid dredging during spawning periods of the Atlantic sturgeon and Shortnose sturgeon. Timing restrictions (March 15th to September 30th) for dredging would be implemented as per guidelines from the NOAA National Marine Fisheries Services
- Use of a clamshell (closed) bucket to minimize resuspended sediments and dredged material will be placed in barges in a manner that minimizes high turbidity levels.
 - Dredged material will be placed deliberately in the barge to prevent spillage of material overboard.
 - The closed clamshell environmental bucket would be lifted slowly through the water, at a rate of approximately two (2) feet per second.
 - No dragging of the dredge bucket along the sediment surface, nor use of drag beam for profiling the dredge surface.
- For the wharf construction, the permanent steel casing for the drilled shaft foundations and the sheet pile wall components would be vibrated in, rather than utilizing an impact hammer. An impact hammer would be used only to seat the steel casing within the first few inches in the top of rock. The overall construction is somewhat similar to the previous dock reinforcement project recently undertaken by the APDC for improvements to the docks at Sheds No. 4 and 5, and more recently the Cargill/Ardent Mills Grain Wharf Reconstruction. Other BMPs considered include:

- Use of pre-drilling prior to vibratory hammering
- Implement soft start (i.e., pile tapping) prior to full energy impact hammering
- If necessary, cushion blocks, air bubbles curtain or other noise attenuating tools would be implemented when impact hammering to avoid reaching noise levels that could cause injury or behavioral disturbance to these species.
- Dredged sediments would be placed in a scow, dewatered, and transported offsite for upland disposal
- Use of nets, tarps, and/or pans during construction of the bridge deck over the Normans Kill and removal of any debris that falls into the water.
- A SWPPP has been prepared and presented in the Joint Permit Application outlining the Erosion and sediment control measures to be implemented and address potential water quality impacts.

3.4 Floodplains and Floodways

Comments # 2. *The SDEIS should include consideration of sea level rise, storm surge and flooding consistent with the Community Risk and Resiliency Act (CRRRA).*

In addition to discussing the impacts that building in the floodplain or floodway will have on surrounding and downstream properties, the SDEIS should include a discussion of proposed impacts to upstream properties.

Response # 2: Comment was addressed and information is provided in **Sections 1.4.4, 3.41, 3.42 and 3.43**, and **Appendix F2** of the SDEIS. The project will not significantly affect the flood plain based flood elevation (BFE) in this area. The building finished floor is set at elevation 21.0, which is 3.0 feet above the floodplain and above the projected sea level rise (19 inches); therefore, no further mitigation measures are recommended. Also, the drainage analysis concluded that the project will not impact the floodplain as the current flood plain elevation is the result of the flooding of the Hudson River backing up during 100-year storm events and/or ice jams. The project's outlets to the Hudson River have a total drainage area of 0.04 square miles and represent 0.0005% of the total drainage area of the Hudson River (8,090 square miles) at the outlet points. Similarly at the project outlets to the Normans Kill the project has 0.12 square miles, representing 0.07% of the Normans Kill watershed area (162 square miles). The time of concentration for the project's runoff is through the proposed drainage system is around 10 minutes. The proposed project will have a negligible impact on the total Hudson River hydrology, as the site-produced runoff will be conveyed and outlet to the Hudson River prior to the Hudson River peak storm elevations and will not have an impact on the overall flood conditions of the Hudson River which would come later from the storm event.

Regarding the proposed wharf, the top surface elevation of the structure at its riverside edge is proposed as +15.50 NAVD88. This elevation is slightly higher (by ~0.5') than the outboard fascia of APDC's main terminal at the Port of Albany. The primary considerations in establishing this elevation include the following:

1. Accommodating variable elevations of cargo decks/holds of the various vessels that will frequent the berth, including elevations under low water, high water, loaded (low freeboard) and light

(large freeboard) conditions, and the ability to efficiently transfer cargo across the face of berth under a wide range of conditions.

2. Providing a surface elevation high enough to avoid frequent overtopping by extreme event flood conditions, including those that may be impacted by Sea Level Rise; the Highest Recorded Water Level for the Period of Record occurred on 1/20/96, at Elevation +14.71 NAVD88.
3. Providing a structure with a geometric section that will prevent low freeboard vessels (i.e., loaded barges), during low water conditions, from entering the space landward of the face of the structure, and potentially contacting and damaging structures and foundations. Similarly, a barge wedged under the wharf could present a significant safety concern.
4. Affording landward slopes and grades that allow for effective collection (for pre-treatment) of stormwater prior to discharge.
5. Providing for landward slopes and grades that accommodate efficient movement of equipment and manufactured products, from higher "floodproofed" elevation to the working riverfront.
6. Recognition that the wharf contains no utilities or any other at-risk items, will not support buildings of any type, and acknowledgement that the sole purpose of the wharf is to provide a platform for the shore-to-vessel transfer of large, manufactured components.

The type of structure, a drilled shaft-supported open-type marginal wharf, configured as a low-level ballasted deck system, consisting of cast-in-place concrete bent caps, precast concrete panels and composite cast-in-place concrete deck slab closure and fascia, is very robust, and can withstand virtually any possible extreme flood event with very little to no anticipated damage to the structure.

Under an extreme flood event scenario, including any reasonably conceived contributing influence of Sea Level Rise where the structure is overtopped, restoration activities needed to return the structure to service would likely be limited to removal of accumulated silt, mud, and other debris from the working surface of the wharf. Depending on flow velocity and patterns there could be some displacement of the dense graded aggregate surfacing during an overtopping flood event, but this material is anticipated to be included in the items where routine maintenance and grading is required, so no special operations or requirements are anticipated for repair. This very rare overtopping scenario is considered both acceptable and necessary, to provide a working wharf surface elevation required to support operations, and also minimize impacts to the waterway.

The final project design includes coordination with the Town of Bethlehem Code Enforcement Officer who is the FEMA representative and the City of Albany. The project will use floodplain design standards that meet or exceed floodplain development requirements and building codes, and as a result no further mitigation is being proposed. As part of the Site Plan approval process, the owner will be required to obtain a Floodplain Development Permit pursuant to Bethlehem Town Code Chapter 69-Flood Damage Prevention.

3.6 Climate and Air

Comments # 3. *Title V Facility Permits are required for all facilities with air emissions greater than major stationary source thresholds; a Title V Facility Permit will likely be required for the tower manufacturing operation. NYSDEC is delegated to issue Clean Air Act Title V permits by the U.S. Environmental Protection Agency. The SDEIS should include a comprehensive analysis of the potential air quality related*

impacts related to the tower manufacturing operations. The addition of a major stationary source as part of the Proposed Action is a significant change and should be fully evaluated in the SDEIS.

The SDEIS should include an assessment of greenhouse gas (GHG) emissions and how the project aligns with the Climate Leadership and Community Protection Act (CLCPA), as required by § 7(2) of the CLCPA. This review should assess the alignment of the Proposed Action with the achievement of the statewide GHG limits established in Article 75 of the Environmental Conservation Law as reflected in Title 6 of the New York Codes, Rules, and Regulations Part 496. The specific gases subject to the law are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride (see 6 NYCRR Part 496). The Proposed Action should seek to mitigate emissions of any relevant GHGs, such as by minimizing the combustion of fossil fuels.

The SDEIS should consider the Proposed Action's impacts on disadvantaged communities including measures being taken to ensure GHG emissions and co-pollutants are not disproportionately burdening disadvantaged communities.

Response # 3: The overall project is not anticipated to result in significant greenhouse gas (GHG) emissions. Project equipment has been carefully selected so the facility can effectively operate, while minimizing its GHG emissions using the most energy efficient and environmentally friendly technologies available. The project does not meet the definition of a major facility since potential emissions will remain below the major facility thresholds as per 6 NYCRR 201-2.1. This will be accomplished by constructing the facility as proposed, and operating and maintaining emission sources and related air pollution control equipment in accordance with good air pollution control practices at all times. An Air Emission Analysis was conducted by Proactive Environmental Solutions and included in the SDEIS as **Appendix E2**.

The Project is committed to doing its part to minimize its environmental footprint on neighboring communities, especially nearby disadvantaged communities. The Project will institute as needed mitigation strategies and procedures, and utilizes high precision, state-of-the-art manufacturing equipment and pollution control technologies at its facilities. During the operational phase, the employees will receive on the job, site specific training, with emphasis on worker safety, pollution prevention and environmental compliance.

The project will perform metallizing activities completely indoors with a state-of-the-art capture and staged filtration and ventilation system, which recirculates purified air indoors. The project will also institute state-of-the-art VOC control on its paint booths using recuperative thermal oxidizers. Use of the VOC control equipment will result in a significant decrease in the project's potential to emit VOC (overall decrease of more than 100 tpy in potential VOC emissions) and HAP (overall decrease of more than 60 tpy in potential HAP emissions). Likewise, with the project utilizing state-of-the-art dust suppression (particulate control) on its abrasive blast equipment and its paint booths, particulate (PM_{2.5}). The combined effect of implementing these mitigation measures leads to significant reductions in the project's potential emissions.

With the project maintaining status as a minor facility, and utilizing state-of-the-art air pollution control technologies to mitigate impacts from potential VOC, particulates and HAP sources, and based on results from the Part 212 review and supporting air quality impact assessment, it is concluded that the project's potential impacts to air quality will be minimal and acceptable.

The facility is therefore eligible to apply for a NYSDEC Air State Facility Permit as a minor facility of regulated air pollutants after taking federally enforceable restrictions (e.g., limiting VOC emissions to less than 50 tons per year, limiting HAP emissions to less than 25 tons per year, limiting particulate (PM10, PM2.5) emissions to less than 100 tons per year, etc.).

3.7 Traffic and Transportation

Comments # 4. *It is recommended that the SDEIS use a more generic term such as “commercial vessel traffic” so that all commercial vessel traffic (e.g., container ships, tankers, cruise ships, etc.) is considered. The term “maritime barge traffic” is specific to only a single type of vessel.*

Response # 4: The Traffic Impact Study has been modified to use the term “commercial vessel traffic” to account for the types of barges and shipping vessels associated with this specific project. As a clarification, container ships, tankers and cruise ships are not anticipated to be associated with this project.

3.20 Environmental Justice Policy

Comments # 5. *The SDEIS should more fully consider environmental justice issues, especially considering that the Proposed Action will likely require a Title V Facility Permit for the new major stationary air emission source for the tower manufacturing operation. NYSDEC strongly recommends that the SDEIS include a copy of the enhanced Public Participation Plan (PPP) and other required elements of NYSDEC Commissioner Policy-29 given the proximity of the Proposed Action to a Potential Environmental Justice Area.*

Response # 5: Refer to the Air emissions analysis in Appendix E2 of the SDEIS, which states that the facility is eligible to apply for a NYSDEC Air State Facility Permit as a minor facility of regulated air pollutants after taking federally enforceable restrictions (e.g., limiting VOC emissions to less than 50 tons per year, limiting HAP emissions to less than 25 tons per year, limiting particulate (PM10, PM2.5) emissions to less than 100 tons per, etc.). The enhanced Public Participation Plan (PPP) has been added as **Appendix K** of the SDEIS.

If you have any questions related to the enclosed information or if you require additional information, please contact me at (518) 580-9380 or via email at SBoisvert@mjinc.com

Sincerely,
McFarland-Johnson, Inc.



for: Steve Boisvert, PE
Director of Civil-Facilities

c: Robert Leslie, Town of Bethlehem
Richard Hendrick, Port of Albany
Megan Daly, Port of Albany
Adam Frosino, McFarland-Johnson